S. HRG. 101-1005

CERTAIN MARITIME PROGRAMS AUTHORIZATIONS

HEARING

BEFORE THE

SUBCOMMITTEE ON MERCHANT MARINE

OF THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

ONE HUNDRED FIRST CONGRESS

SECOND SESSION

ON

AUTHORIZE APPROPRIATIONS FOR FISCAL YEAR 1991, FOR CERTAIN MARITIME PROGRAMS OF THE DEPARTMENT OF TRANSPORTATION AND THE FEDERAL MARITIME COMMISSION

JUNE 20, 1990

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CERTAIN MARITIME PROGRAMS AUTHORIZATIONS

WEDNESDAY, JUNE 20, 1990

U.S. SENATE,
SUBCOMMITTEE ON MERCHANT MARINE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:00 p.m., in room SR-253, Russell Senate Office Building, Hon. John B. Breaux [chairman of the subcommittee] presiding

Staff members assigned to this hearing: Harold Creel, staff counsel; John Moran and Earl Comstock, minority staff counsels.

OPENING STATEMENT BY SENATOR BREAUX

Senator BREAUX. The Committee will come to order.

Good afternoon. This afternoon, our Subcommittee on Merchant Marine will receive testimony on the programs to be authorized for fiscal year 1991 for the Maritime Administration and the Federal Maritime Commission.

While the problems facing the U.S. maritime industry continue to be numerous, signs are evident that the industry may be experiencing some dramatic changes. I would encourage all of you in the industry to take advantage of these changes, and use these changing conditions to your benefit.

Several events are occurring at the international level that could drastically affect the maritime industry both domestically and worldwide. The Administration has just signed a bilateral maritime agreement with the Soviet Union, and I might add with little input from the U.S. maritime industry. Also, there are talks going on to reduce the subsidies foreign countries give their shipyards. Those unfair subsidies have put U.S. shipyards at a competitive disadvantage. By reducing or abolishing those supports, U.S. shipyards will hopefully be able to compete on a more level playing field with their foreign counterparts.

Finally, the GATT talks are about to start up again in Geneva. It is essential that maritime services be excluded from those negotiations. To bargain away our merchant marine in commercial trade negotiations would have a serious negative economic impact on the U.S. maritime industry and create a national security threat to this country. It remains to be seen, however, whether maritime services will be excluded from the GATT negotiations.

At home, I anticipate more vicious attacks on cargo preference with the reauthorization, particularly, of the farm bill. I still find it incredulous that some segments of the agriculture industry, an industry that received over $12 billion of subsidies in 1989, continue to oppose the additional cost of shipping on U.S. ships, which cost only $132 million in 1989 in comparison. Cargo preference is

indeed the lifeblood of the industry, and the industry is absolutely essential for the national security.

A requirement that simply requires that a portion of U.S. food aid we send to needy countries be shipped on U.S. ships makes sense. Should not the recipients of that relief be able to tell what countries those products are coming from by looking at the ship that it comes in?

The cargo preference compromise that was negotiated between the agricultural and maritime interests five years ago has worked. The set-aside of cargos for the Great Lakes, which was not part of the original compromise, has not. That was a port preference scheme whereby the Great Lakes ports received cargoes that were artificially diverted from other ports, especially Gulf ports. That set-aside has expired and should not be resurrected.

After many years of controversy and inaction there has finally been a consensus reached in at least one sector of the U.S. maritime industry, the U.S.flag international fleet, on ODS reform. I commend the United Shipowners of America, that represent those carriers, for their efforts. Now it is time to broaden that consensus and address the concerns of other affected interests in the industry—the maritime labor unions, shipbuilders—and I intend to do just that. I intend to introduce the USA bill by request, meaning that I am not endorsing it, per se, but introducing it as a way to start the dialogue that is necessary to write the legislation that is worth endorsing in its entirety.

Finally, the oil spill legislation is starting to take shape. It is time to get moving on this legislation. The double hull requirements should help revitalize U.S. shipyards. However, I do not believe that double hulls alone are the answer. You can have all of the design requirements in the world, but if you have foreign crews that do not have adequate training or response skills, we will continue to have disastrous oil spills. The recent spill off of Galveston I think is proof of that.

This afternoon, I would welcome to our Committee all of our witnesses. I look forward to hearing their testimony and hearing their responses to some of the questions that we will be putting to them.

I want to acknowledge a group of our guests in the audience this afternoon, a group that represents the future of this country, and by that I mean I have several summer interns who are schoolteachers from Louisiana that are participating in their Government for a short period of time and are in the audience, and raise your hand and I will wave back to you. They are learning how our Government works in one week, and I would hope that they would let me know how it works after that one week. We are delighted to have them here.

I have an opening statement that Senator Hollings would like to have included in the record.

[The statement follows:]

OPENING STATEMENT BY THE CHAIRMAN

This afternoon we will hear testimony on the fiscal year 1991 funding authorization for both the Maritime Administration and the Federal Maritime Commission. Both agencies are charged with important responsibilities regarding the U.S. maritime industry and today face many issues that are significant to the future of this industry.

One such issue is that of the emergence of several democratic governments in Eastern Europe and the decentralization of the Soviet Republics, and the resulting opportunity for increasing maritime commerce with these nations. While this opportunity exists, we should proceed cautiously in opening our maritime trade to these countries to ensure that our industry can compete fairly for the trade with these countries.

In addition, the United States and the Soviet Union have just signed a bilateral maritime agreement. As you know, some of the Committee Members, including Senator Breaux and I, wrote to the President supporting the inclusion in the trade agreement of a cargo-sharing provision reserving a portion of traded goods for carriage on U.S.-flag vessels. Such a provision seemed only fair and appropriate to support our U.S. maritime fleet, given the benefits that would accrue to the Soviets

under the agreement. The cargo-sharing provision was not included, however, in the final agreement. We only can hope that this bilateral agreement does not create further problems for the U.S.-flag carriers.

Yet another issue impacting the ability of the U.S. maritime industry to compete in the world market is cargo preference. Once again, the reauthorization of agricultural programs is before Congress, and the cargo preference requirements, which require that a certain percentage of donational cargoes be carried on U.S.-flag vessels, will be under scrutiny again as well. The reasoning behind and the objectives of the cargo preference compromise that was worked out between the maritime interests and the agricultural interests five years ago are still valid. We should continue to support the use of U.S.-flag vessels for the transportation of American products to countries in need of American support.

I look forward to the testimony today on these and other important maritime issues.

Senator BREAUX. So I would like to welcome our first panel of witnesses, consisting of the Honorable Warren Leback, who is of course Administrator of the Maritime Administration within the Department of Transportation, who is accompanied by some of his colleagues, and we welcome all of you. Warren, welcome to the Committee, and we look forward to your testimony.

STATEMENT OF HON. WARREN G. LEBACK, ADMINISTRATOR, MARITIME ADMINISTRATION, DEPARTMENT OF TRANSPORTATION; ACCOMPANIED BY REGINALD A. BOURDON, ASSOCIATE ADMINISTRATOR FOR POLICY AND INTERNATIONAL AFFAIRS; EARNEST HAWKINS, ASSOCIATE ADMINISTRATOR FOR ADMINISTRATION; AND ROBERT J. PATTON, JR., DEPUTY GENERAL COUNSEL

Mr. LEBACK. Thank you, Mr. Chairman. It is a pleasure to be here this afternoon. I have with me Reg Bourdon, the Associate Administrator for Policy, Earnie Hawkins Associate Administrator for Administration, and the Deputy General Counsel Bob Patton.

My name is Warren Leback, and I am the Maritime Administrator for the Department of Transportation, and it is my pleasure to appear before you this afternoon to outline the Maritime Administration's fiscal year 1991 budget authorization request and, with your permission, Mr. Chairman, I intend to summarize my testimony and submit a full statement for the record.

The following summarizes our budget request. The Maritime Administration's total budget request is $557,887,000. For operating differential subsidies, we are requesting an appropriation to liquidate contract authority for existing subsidy contracts amounting to $261,200,000. This will provide for an estimated subsidy program of 99 vessels, of which there will be 61 liner vessels and 38 bulk vessels.

Operations and training. We are requesting $71,687,000 for operation and training activities of the Maritime Administration. The study regarding the use of vessels to provide training opportunities for all academy students which was required by our fiscal 1990 authorization act is underway. Pending completion of this study, the Maritime Administration plans to implement sharing of two training ships by five State academies. Unlike previous budget requests, we are not proposing at this time any changes in the student incentive payment program for the State Maritime Academies.

The ready reserve force. A funding request of $225 million has been developed in conjunction with the U.S. Navy and is fully supported by DOD. Our funding proposal includes three items. First, $49,400,000 is requested for the addition of up to five vessels to the ready reserve force. Second, $171,600,000 is requested for ship maintenance and operations. Third, $4,000,000 is requested

for facilities to provide for the maintenance and improvement of our reserve fleet sites.

Other requests. The Administration's proposal would also amend Section 510(i) of the 1936 Merchant Marine Act. This section authorizes the Secretary of Transportation to acquire for the national defense reserve fleet, the NDRF, suitable U.S. constructed vessels in exchange for obsolete vessels that are presently in the NDRF. The proposed amendment would authorize the Secretary to sell the NDRF vessels designated for scrap when scrap prices are most favorable and use the funds at the most opportune time to acquire suitable vessels for the NDRF.

Mr. Chairman, as an additional matter, I would like to express the Department's support for an amendment to the FMC's authorization which would extend the date for submission of the final report of the Advisory Commission on Conferences and Ocean Shipping. A report is currently due in September of this year, and as you know, Secretary Skinner and eight Members of Congress, which you are well aware of, have been appointed to the advisory commission. Eight private sector members are expected to be named in the near future, but it is unlikely that that final report could be completed in the time frame.

An amendment similar to Section 2 of H.R. 4009, the House's FMC authorization bill, would clarify that the advisory commission has one year after all members are appointed to submit its report.

This concludes my statement, Mr. Chairman. I will be glad to answer your questions and those of any other members of the Subcommittee.

[The statement follows:]

STATEMENT OF CAPTAIN WARREN G. LEBACK, MARITIME ADMINISTRATOR, DEPARTMENT OF TRANSPORTATION

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE ON MERCHANT MARINE. MY NAME IS CAPTAIN WARREN G. LEBACK, AND I AM MARITIME ADMINISTRATOR OF THE DEPARTMENT OF TRANSPORTATION. IT IS MY PLEASURE TO APPEAR BEFORE YOU THIS AFTERNOON TO OUTLINE THE MARITIME ADMINISTRATION'S FISCAL YEAR 1991 BUDGET AUTHORIZATION REQUEST. THE SECRETARY OF TRANSPORTATION HAS TRANSMITTED TO CONGRESS THE ADMINISTRATION'S AUTHORIZATION BILL.

THE MARITIME ADMINISTRATION IS RESPONSIBLE FOR DEVELOPING AND MAINTAINING A STRONG U.S. MERCHANT MARINE CAPABLE OF MEETING OUR COUNTRY'S REQUIREMENTS FOR BOTH COMMERCIAL TRADE AND NATIONAL DEFENSE.

THE AUTHORIZATION REQUEST THAT IS BEFORE YOU TODAY CONTINUES OUR EFFORTS TO IMPLEMENT THE NATIONAL SEALIFT POLICY SIGNED BY THE PRESIDENT IN OCTOBER 1989, AS THE REQUIREMENTS FOR SHIPS, MANPOWER, AND RESOURCES ARE PRESENTLY DEFINED.

BUDGET OVERVIEW

THE MARITIME ADMINISTRATION'S TOTAL BUDGET REQUEST OF $557,887,000 HAS THREE DISTINCT ELEMENTS: OPERATING-DIFFERENTIAL SUBSIDIES, THE READY RESERVE FORCE, AND OPERATIONS AND TRAINING. OPERATING-DIFFERENTIAL SUBSIDIES (ODS)

AS AUTHORIZED BY CURRENT LAW, WE ARE REQUESTING AN APPROPRIATION TO LIQUIDATE CONTRACT AUTHORITY FOR EXISTING SUBSIDY CONTRACTS AMOUNTING TO $261,200,000. THIS WILL PROVIDE FOR AN ESTIMATED SUBSIDY PROGRAM OF 99 VESSELS, 61 LINER AND 38 BULK SHIPS. THE AMOUNT REQUESTED INCLUDES FUNDS TO MAKE UP FOR 1990 COSTS WHICH WERE NOT INCLUDED IN THE APPROPRIATION LAST YEAR AND TO COVER ESTIMATED INCREASED COSTS FOR FY 1991.

OPERATIONS AND TRAINING (O&T)

WE ARE REQUESTING $71,687,000 FOR THE OPERATIONS AND TRAINING ACTIVITY OF THE MARITIME ADMINISTRATION, AN INCREASE OF $6,637,000 OVER THE 1990 APPROPRIATION. THE INCREASE IS ATTRIBUTABLE TO THE FACT THAT THE 1990 PROGRAM WAS PARTIALLY FUNDED BY A TRANSFER OF $2,250,000 FROM THE SHIP CONSTRUCTION ACCOUNT; PAYROLL AND OTHER TECHNICAL ADJUSTMENTS HAVE

BEEN MADE AMOUNTING TO $2,387,000, AND A PROGRAM INCREASE OF $2,000,000 IS REQUESTED.

THE PROGRAM INCREASE OF $2,000,000 IS TO REPLACE THE RADAR SIMULATOR AT THE U.S. MERCHANT MARINE ACADEMY. REPLACEMENT OF THIS OBSOLETE EQUIPMENT IS NECESSARY, BECAUSE IT CANNOT BE UPGRADED OR EVEN MAINTAINED SINCE SPARE PARTS ARE NOT AVAILABLE. THIS SIMULATOR TRAINING IS REQUIRED BY THE U.S. COAST GUARD AS A CONDITION FOR LICENSING OF DECK OFFICER STUDENTS.

THE STUDY REGARDING THE USE OF VESSELS TO PROVIDE TRAINING OPPORTUNITIES FOR ALL ACADEMY STUDENTS, WHICH WAS REQUIRED BY OUR FY 1990 AUTHORIZATION ACT, IS UNDERWAY. WE WILL SUBMIT THIS STUDY TO CONGRESS ON OR ABOUT AUGUST 1, 1990. PENDING COMPLETION OF THIS STUDY, THE MARITIME ADMINISTRATION PLANS TO IMPLEMENT SHARING OF TWO TRAINING SHIPS BY FIVE STATE MARITIME ACADEMIES. NO ADDITIONAL FUNDS ARE REQUIRED FOR SHIP- SHARING. FUNDS SAVED BY THIS PLAN WILL OFFSET THE ESTIMATED COSTS COVERING POSITIONING, CADET TRANSPORTATION, AND MAINTENANCE CREWS.

UNLIKE PREVIOUS BUDGET REQUESTS, WE ARE NOT PROPOSING AT THIS TIME ANY CHANGES IN THE STUDENT INCENTIVE PAYMENT (SIP) PROGRAM FOR STATE MARITIME ACADEMIES. DURING FISCAL YEAR 1990, WE WILL DETERMINE WHETHER THE EXISTING SIP PROGRAM IS THE BEST WAY TO MEET THE FEDERAL OBJECTIVE TO PROVIDE AN ADEQUATE SUPPLY OF LICENSED MERCHANT MARINE OFFICERS TO SERVE ON U.S.-FLAG MERCHANT VESSELS IN PEACETIME AND DURING NATIONAL EMERGENCIES. A BASIC TENET OF THIS REVIEW IS THAT, COMMENSURATE WITH THE LEVEL OF FEDERAL SUPPORT TO THE STATE ACADEMIES, THE GRADUATES OF THOSE ACADEMIES SHOULD BE OBLIGATED TO SERVE THIS COUNTRY'S NEEDS IN AN EMERGENCY. AFTER CONSULTATION WITH COGNIZANT AGENCIES, THE ADMINISTRATION WILL PROPOSE ANY NECESSARY LEGISLATIVE CHANGES TO THE SIP PROGRAM IN ITS SUBMISSION OF THE FY 1992 AUTHORIZATION REQUEST. READY RESERVE FORCE (RRF)

A FUNDING REQUEST OF $225,000,000 HAS BEEN DEVELOPED IN CONJUNCTION WITH THE U.S. NAVY AND IS FULLY SUPPORTED BY DOD. THE DEPARTMENT OF DEFENSE HAS RECENTLY RE-EXAMINED THIS ISSUE AND REITERATES ITS SUPPORT OF THIS RRF FUNDING REQUEST. THIS AMOUNT SUPPORTS PROGRESS TOWARD THE LONG-TERM DOD GOAL OF 142 SHIPS IN 1994.

OUR FUNDING PROPOSAL INCLUDES THREE ITEMS: FIRST, $49,400,000 IS REQUESTED FOR THE ADDITION OF UP TO FIVE VESSELS TO THE FLEET, BRINGING THE RRF TO A TOTAL OF 105 VESSELS BY THE END OF FY 1991.

SECOND, $171,600,000 IS REQUESTED FOR SHIP MAINTENANCE AND OPERATIONS. THIS AMOUNT WILL PROVIDE SUFFICIENT FUNDS FOR MAINTENANCE OF THE RRF FLEET; PERMIT RESUMPTION OF EIGHT SHIP ACTIVATIONS TO ASSESS PROGRAMMED MAINTENANCE, ACTIVATION CAPABILITIES AND PROCEDURES; AND INCREASE AND IMPROVE THE SPARE PARTS PROGRAM.

THIRD, $4,000,000 IS REQUESTED FOR FACILITIES TO PROVIDE FOR THE MAINTENANCE AND IMPROVEMENT OF OUR RESERVE FLEET SITES WHERE 50 OF THE 96 RRF SHIPS ARE PRESENTLY LAID UP IN VARIOUS STAGES OF READINESS. THE RRF PROGRAM IS A KEY PART OF THE NATION'S OVERALL DEFENSE STRATEGY OF SEALIFT READINESS AND RAPID REINFORCEMENT. IT SUPPLIES ABOUT ONE-THIRD OF ALL U.S. STRATEGIC SEALIFT CAPACITY AND OVER HALF OF OUR CAPABILITY TO MOVE SPECIALIZED MILITARY EQUIPMENT BY SEA. THE ABILITY TO DEPLOY FORCES AND EQUIPMENT RAPIDLY TO REINFORCE FORWARD-DEPLOYED TROOPS BECOMES EVEN MORE IMPORTANT IN LIGHT OF THE PROPOSED REDUCTIONS IN CONVENTIONAL FORCES ABROAD. LACK OF FINANCIAL SUPPORT FOR THE READINESS AND ADEQUACY OF THE RRF WOULD JEOPARDIZE OUR ABILITY TO DEPLOY U.S. FORCES AND UNIT EQUIPMENT IN A "GO IT ALONE" CONTINGENCY WITHOUT ALLIED ASSISTANCE. IN THE FY 1990 BUDGET, THE RRF FUNDING REQUEST IN MARAD'S BUDGET WAS CLASSIFIED AS A TRANSPORTATION FUNCTION AND COMPETED WITH OTHER HIGH PRIORITY NON-DEFENSE DEMANDS FOR FY 1990, RESULTING IN AN APPROPRIATION WELL BELOW THE REQUEST. THE PROGRAM IS NOW CLASSIFIED AS A NATIONAL DEFENSE FUNCTION, AND, AS IN THE PAST, FUNDING IS REQUESTED AT LEVELS COMMENSURATE WITH NATIONAL SECURITY REQUIREMENTS.

OTHER REQUEST

THE ADMINISTRATION PROPOSAL WOULD ALSO AMEND SECTION 510(i) OF THE MERCHANT MARINE ACT, 1936, AS AMENDED (46 APP. U.S.C. 1160(i)). THIS SECTION AUTHORIZES THE SECRETARY OF TRANSPORTATION TO ACQUIRE FOR THE NATIONAL DEFENSE RESERVE FLEET (NDRF) SUITABLE U.S. CONSTRUCTED VESSELS IN

EXCHANGE FOR OBSOLETE VESSELS IN THE NDRF. THE PRESENT LAW REQUIRES A CONTEMPORARY EXCHANGE OF TITLES BETWEEN THE "TRADE-OUT" AND "TRADE-IN" VESSELS, AND THE MARKET SCRAP VALUE AT THAT TIME DETERMINES THE VALUE OF THESE VESSELS. AS THE MARKET SCRAP VALUE FLUCTUATES, THE SECRETARY IS NOT ALWAYS ABLE TO MAKE THE MOST ADVANTAGEOUS ARRANGEMENTS.

THE PROPOSED AMENDMENT WOULD AUTHORIZE THE SECRETARY TO SELL NDRF VESSELS FOR SCRAP WHEN SCRAP PRICES ARE FAVORABLE, AND USE FUNDS AT THE MOST OPPORTUNE TIME TO ACQUIRE SUITABLE VESSELS FOR THE NDRF. THIS AUTHORITY WOULD GIVE THE SECRETARY THE NEEDED FLEXIBILITY TO RENEW THE NDRF AT THE LEAST POSSIBLE COST TO THE GOVERNMENT. THIS CONCLUDES MY STATEMENT, MR. CHAIRMAN, AND I WILL BE GLAD TO ANSWER YOUR QUESTIONS AND THOSE OF OTHER MEMBERS OF THE SUBCOMMITTEE.

U S. Department of Transportation
The Honorable John B. Breaux, Chairman,
Subcommittee on Merchant Marine, Committee on Commerce, Science and Transportation, United States Senate Washington, D.C.

Dear Senator Breaux: I would like to thank you for the opportunity to testify before your Subcommittee last week in support of the Maritime Administration's FY 1991 Budget Request. In addition, to avoid any potential misunderstanding, I would like to supplement my answer on two subjects for the record.

First, at that hearing you suggested that it might be reasonable to take Ready Reserve Force (RRF) funds and put them into a subsidy program to support operating ships. To the contrary, I do not believe RRF funds should be reprogrammed into a subsidy program for operating ships primarily because of the detrimental effect that action would have on our national defense surge sealift capability.

The active merchant marine and the RRF are complementary, not competitive assets. We need a strong merchant marine as well as the RRF in order to perform military missions which require the modern ships of today, but also the unique capabilities of RRF ships no longer competitive in the world market but essential to meet military contingencies.

The RRF was created in 1976 because the U.S.-flag fleet was diminishing in size and changing in character to the point where the Department of Defense had a genuine concern that it would be unable to acquire the types of lift it needed in a timely manner in a national emergency. Ships with roll-on/roll-off or self-sustaining breakbulk capacity, which are of high military utility, were rapidly fading out of existence and being replaced by larger containerships which are unable to carry and discharge outsized military cargo without conversion. The intent of the RRF program was to create a mechanism to retain those highly militarily useful assets which are no longer viable in the commercial market. Over the last decade the RRF has evolved into a fleet of 96 ships with unique military sealift support capabilities. Some of these ships, such as the Auxiliary Crane Ships (TACS) and Offshore Petroleum Discharge System (OPDS) tankers, have been converted for special military missions not relevant to commercial shipping operations. Others, such as the breakbulk, LASH, and roll- on/roll-off ships, have limited commercial viability for today's operation under U.S. flag..

To reiterate what Vice Admiral Donovan and I both testified to before your Subcommittee, full funding of the RRF budget in FY 1991 is critical if we are to maintain the unique capabilities that asset to meet national defense sealift requirements which remain in spite of the changes in Europe. Secondly, I was asked whether it would be desirable to have legislation to make the law clear that agencies administrating purchase authorizations are required to fix U.S.-flag vessels first under the cargo preference laws. It is MARAD's strong view that the regulations promulgated on this matter are unequivocally clear and that Congress conferred on the Department of Transportation the authority to issue such regulations. In sum, although we believe we have the authority, legislation could be helpful to clarify this issue.

Again, thank you for this opportunity to clarify my views with you and your Subcommittee. I would appreciate your inclusion of this letter in the hearing record.

Sincerely,

CAPT. WARREN G. LEBACK, *Maritime Administrator.*

Senator BREAUX. Thank you very much, Mr. Leback, for your statement and for your appearance before the Committee.

Let me ask a number of different questions. Let me start with the maritime agreement between the United States and the Soviet Union. We have just signed, as we all know, a bilateral maritime agreement with the Soviet Union. A feature of the agreement is a lack of any kind of a cargo sharing provision which would guarantee, particularly, one third of the cargo for U.S. vessels and one third for Soviet carriers, and one third of it, as I understand, for third country vessels to carry their cargo.

My question, I guess, is why is that deleted? What is the position of MarAd on that deletion?

Mr. LEBACK. It was deleted after discussions within the Administration on the problems that we saw in carrying it out. However, I must explain that the way it is now put together, as long as the American flag vessel is competitive at the time that the cargoes are tendered, the Soviets must offer that cargo and book it with the Americans.With the modern bulk carrier fleet that we have developed over the last five or six years, we conceivably could carry a considerable amount of that Russian grain, providing that the American vessel is competitive at the time of the tender.

Senator BREAUX. Well, how are we ever going to be competitive with a privately owned fleet against the fleet of a country like the Soviets, for example, that is essentially government owned and heavily subsidized? I mean, in theory that sounds good, but I mean I do not see how we would ever be competitive against a government owned fleet.

Mr. LEBACK. Well, in the past I believe the record indicates that the Soviet fleet has only carried about 25 to 30 percent of the total grain cargoes, and that the third flag has been the main carrier of Soviet grains. So we would be competing not only with the Soviets but with the third flag.

Senator BREAUX. That makes it even worse. I mean, in addition to competing against the Soviets, which essentially is a government operated maritime industry, we are also competing against other subsidized third world countries, and I guess what you are saying is that, well, if we can be competitive from a price standpoint we may get some of the carriage, but my concern is that we are not going to be, and we essentially are giving up something that we fought for in other theaters.

Mr. LEBACK. I also must point out that in the agreement and in the position of MarAd after the agreement, or before we finish the agreement, that those bulk carriers which are carrying the commercial cargoes of grain to the Soviet Union and which are under ODS agreements, or ODS contracts, will not lose the ODS payments for that cargo.

Those are not government generated cargoes from the United States, such as Public Law 480 and Title II. They are commercial cargo. Therefore if the bulk carriers that are under subsidy contracts, should be able to come down to the competitive rate in booking those cargoes, they will be paid the subsidy they earn in carrying those cargoes. It was shown on several cargoes to Poland last year where the American flag carrier was below the Polish flag and the third flag countries.

Senator BREAUX. What was the position of MarAd, to support a one third split? You just essentially got rolled?

Mr. LEBACK. I will defer that.

Senator BREAUX. Is he the rollee?

Mr. LEBACK. He was my point man and white paper writer on the negotiations. Go ahead.

Mr. BOURDON. Senator, the reason the United States did not opt for a cargo sharing approach was because it was felt that this would be inconsistent with the direction we wished to push the Soviets, as far as the way their economy was going. To have cargo sharing demands a great deal of centralization, and it demands a certain hands on attitude with respect to the movement of cargoes. That was felt to be totally inconsistent with our overall policy, with what we were trying to do with the Soviets in other aspects of their economy.

It was felt that it was more appropriate, therefore, to try to push them into a nondiscriminatory approach to the economy, to cargo in general, and that if we

were to go forward and attempt to try to seek some improvement and to get a fair deal down the road, that we had better, right from the very start, move in the direction of a nondiscriminatory approach rather than a cargo sharing one.

I do not think it is any secret as to what the Maritime Administration's views were. We made them known. Like any other decision that is made in the Government, once our views were aired and we felt they were consistently listened to by people, that was the position the Government took, and that is the way we marched.

Senator BREAUX. Well, I find it to be very discouraging. I think a lot of Americans and most Members of Congress want to improve trade relations with the Soviet Union. We want to sell them grain, and that is good for agriculture, but we do not want to give away things that are important to us in doing that.

We have suffered in other areas against Soviet maritime trade practices and across trades in other areas, and the first big negotiation that we have with the Soviets after glasnost and perestroika and everything else, we sell them grain at a good deal and ship it to them on Polish ships and Soviet vessels, and I would like to see the American grain coming into the ports on American ships, and it is just disappointing that we did not have that as a policy within this Administration.

But it is apparently a done deal, unless Congress suggests that is not the way to go with regard to the Soviets in this area. I know what your position is. I mean, you all just got rolled, and that is disappointing.

Let us talk about some other areas. How about the rest of the cargo preference, what is left of it? The farm bill is working its way through both the House, as you know, and the Senate. I think that the compromises that were reached in '85 during the last farm bill reauthorization I thought were realistic and balanced, and I think people in the agriculture community as well as the maritime industry had felt that the increase of the preference from 50 percent to 75 percent yet carving out some areas that were not covered by those requirements were something that has worked well.

There are those in the Congress that are attempting, obviously, to do away with that and are trying to do it legislatively. I recognize that Secretary Skinner has written, a letter in support of cargo preference for agricultural products. My question to you, Mr. Leback, is that still the position of the Administration, or are there any cracks in that position? Is that a position that is likely to get rolled somewhere else, perhaps, or where are we with regard to the essence of cargo preference with regard to agriculture?

Mr. LEBACK. As far as the Administration's position at this point, it is not to expand nor contract the existing cargo preference laws. It is to uphold what that law, the 75 percent allocation that was done in 1985, and I have no knowledge that there is any change in the Administration's position at this point in time.

Senator BREAUX. You have got some fuzzy words in there that gives me some concern, "at this time," and "uphold," as opposed to support. Is there a difference between uphold the law and supporting it?

Mr. LEBACK. Well, the Administration is supporting the 75 percent allocation or division.

Senator BREAUX. And would oppose attempts to change?

Mr. LEBACK. And would oppose attempts to change it, yes.

Senator BREAUX. For the foreseeable future?

Mr. LEBACK. Yes, sir.

Senator BREAUX. What is the position of the Administration on any set-aside cargoes for particular ports in the country?

Mr. LEBACK. On the setasides, the Department's position is that all ports should be treated equally.

Senator BREAUX. That is satisfactory. It is our understanding that certain U.S.flag vessel operators who are participating in the P.L. 480 programs, the Food for Peace Program, have experienced some serious payment problems, particularly with respect to payments from certain recipient countries that they are delivering grain to. I understand that the Maritime Administration has proposed a regulation that would address this problem. Could you describe it to me and give me the status of where we are with that?

Mr. LEBACK. Well, that regulation has been forwarded to OMB where it is being held up on the basis that Agriculture and AID want to comment on it. But it would tighten up on the payment to those companies that are carrying that P.L. 480 or Title II cargoes to those countries.

In the interim period, until we can break it loose out of OMB, I have had several discussions with Agriculture on the problems that are involved in collecting the freight monies and the withholding of monies and the letters of credit. It has been an ongoing proposition, and I will be glad to report back our progress on that within the next several weeks

Senator BREAUX. If there is anything that needs to be done from a congressional standpoint, I would hope that MarAd would be able to give us a recommendation on that, either a tighter legislative approach if we cannot do it by regulation. So I think it would be important to keep us informed as much as we can on this one.

Mr. LEBACK. We will do that.

Senator BREAUX. I understand also that the Department of Agriculture and the Agency for International Development, AID, seem to be really ignoring MarAd regulations with respect to fixing the American tonnage requirements before awarding of the charters. And MarAd regulations provide that U.S.flagged vessels must be chartered first with respect to each purchase authorization, unless MarAd would consent to do otherwise, of course, to ensure that the vessels do not end up carrying cargoes only on undesirable shorter routes.

What are you doing to ensure that its regulations requiring to fix the American tonnage first be followed?

Mr. LEBACK. Well, every time it comes up——

Senator BREAUX. It is a problem is it not?

Mr. LEBACK. It is a problem. AID and Agriculture look at the 75 percent requirement as though that you can do it at any given point in time, and not necessarily have to take the 75 percent at the very beginning, giving us the concern and the bulk operators the concern that you can run out of that 75 percent before the end of the fiscal year and get a slap on the wrist.

It has been a continuing problem, but we are working on it.

Senator BREAUX. What, if anything, do we need to do with regard to the law or the requirement? Is it clear enough? Are they arguing that they can do it any way they want? Would it be helpful to statutorily fix it, or what?

Mr. LEBACK. I think it would be. It would be to everybody's advantage to statutorily fix it on the basis that you have got to take the American first, as a priority, and then whatever is left over goes to the foreigner. Then you are assured that the 75 percent requirement by law is met.

Senator BREAUX. Let us talk about ODS programs for a while.

I think most members of the maritime industry obviously will agree that some type of ODS reform is going to be required and is going to be required in the very near future. Most operators are running out of their vessels because they are getting too old to qualify for subsidies. U.S.flag operators as I have mentioned in my opening statement, have finally gotten together on a proposal which I will be introducing, along with Senator Lott, probably tomorrow.

Other components of the industry are starting to talk and discuss and speak to various aspects of reform that meets their needs. While all of this is happening, I note that the Administration has still not come up with a proposal.

And I remember during your confirmation hearing, Mr. Leback, I had asked about when could we expect an Administration bill. And I think the response was, well, within 60 days maximum. And my calendar says that we are long past that period and we do not have a proposal yet.

Can you give me your comments on what is holding it up, where is it, when can we expect it from a reality check viewpoint?

Mr. LEBACK. The Secretary early on in the year established a maritime policy review task force to follow up on the preliminary work that had been done, and it has completed, to the greater extent, its review. We are expecting, or I am expecting, that the internal maritime policy review will be completed soon, and we will be able to come out with something.

Senator BREAUX. Is soon in this Congress, or are we looking at another Congress before that is going to happen? Because we are rapidly running out of this Congress.

Mr. LEBACK. Yes, I understand that. I hope within this Congress.

Senator BREAUX. If Senator Lott and I introduced a bill tomorrow and had hearings the following week and we asked Secretary Skinner to come up and talk to us about the bill, what kind of reaction would we get? Because we are going to do that.

Mr. LEBACK. Well, we have not seen the bill that is going in, in all detail. It would be premature to say what he would support or not support. So, I could not really answer for him on that point. But, if it is close to some of the things that have been looked at in the policy review task force, his answers might be positive. I cannot say. I just cannot say or put words in his mouth. We have not seen it, so we need to look at it.

Senator BREAUX. Bring the message back that we intend to have that scenario where we are going to introduce the bill by request as a means of starting some dialogue and discussion. And we just do not want to hear from the industry. I mean we have been working with them for far too long and with very little results, so we know what they are going to say, and we know who is for it and who is against it and who wants to modify it or change it. So we really need the leadership on this issue from the Administration. That is the last part of the puzzle, I think, that is going to be needed in order to get something realistically done in the near future before it is going to be too late to do anything.

Let me ask about the National Defense Reserve Fleet, the NDRF. I know that the House got into this discussion, when you were there, in great detail. All of us have noted a number of articles and various news media criticizing the program.

In essence, as I understand it, they are saying, look, you are keeping a bunch of outdated, wornout, inoperative vessels. It is costing you money to do it. The vessels are pre- World War II, they are not going to be used for anything that is important to the national security of the United States in 1990. Why are you doing it? Why do not you just sell them, scrap them and use the money for something else?

That I find to be a very legitimate criticism. And what is your response to that?

Mr. LEBACK. Well, in the NDRF there are 330 vessels, and as pointed out to the House committee, the 330 vessels are divided into four categories. This includes 122 NDRF active retention ships and 96 RRF ships owned by MarAd and designated by DOD as sealift mobilization assets (which are held in reserve to be activated in 5, 10 and 20 days.)

MarAd additionally has 17 nonmobilization ships in the NDRF program that have no defense utility, some of which could be made available for disposal. There are currently 95 ships being kept at NDRF fleet sites on a reimbursable basis that are not part of the NDRF program. These include Navy/DOD vessels being held for specific reasons and ships that have been defaulted through the Title XI program. The Navy has indicated a continuing need to place additional ships in the NDRF.

We estimate that it costs approximately $14,400 annually per ship for direct maintenance costs of the NDRF active retention vessels. Unlike the RRF group of ships, NDRF active retention ships only receive basic preservation maintenance that includes dehumidification of machinery spaces, cathodic protection of the hulls and periodic painting when funds and manpower are available. The 17 non-mobilization ships are being held at no direct cost to MarAd. The balance of NDRF funding pays for program direction and administration, facilities maintenance, a vessel transfer and disposal function, and overhead expenses such as utilities, supplies and leases at three fleet sites and headquarters in support of the total program. This includes all of the 330 ships.

We have had numerous exercises with those vessels and it has been proven and I think Admiral Donovan follows me here, and he can collaborate on that, that they have performed on the breakouts of the five, 10 and 20 days, and have performed.

So that takes care of 96 out of the 330.

There are 52 navy owned vessels located at the NDRF fleet sites at Suisun Bay, Beaumont and the James River, which are in MarAd custody at the request and expense of the Navy, pending instructions of the Navy as to whether or not they are mobilization assets or will be scrapped or used for target ships or other uses the Navy may have.

There are 45 vessels at the reserve sites which are Title XI assets which have come back to MarAd due to defaults under the Title XI program, which are being held and maintained at the fleet at the expense of the title XI fund for disposal or resale.

There are 117 other NDRF retention ships, of which 72 are Victory type ships built between the years of 1943 and 1945. The remaining 45 are primarily breakbulk vessels built in the 1960's and tankers built in the late 1950's and early 1960's. I think the oldest are the two troop ships that we took back when we provided the State of Massachusetts and the State of New York new training ships. They date back to 1954.

Senator BREAUX. Some of those ships are averaging 40 years old, plus. Would you not like to get rid of them?

Mr. LEBACK. Yes, when we can trade them out. But also, if I may state, in our request this year there is a provision for section 510(i) scrap out program that would give us the ability to sell some of those ships now, when the scrap market is high, and then acquire newer ships downstream.

We know very well that some vessels will be coming back or be available to be acquired under section 510(i) in the near future or in the next several years, both tankers and break bulk vessels. It makes a lot of sense to scrap out the older ones and bring in some newer ones.

Senator BREAUX. What is the NDRF costing us for storing those vessels?

Mr. LEBACK. We spend nothing on the scrappers and approximately $2 million a year to maintain the 117 NDRF militarily useful ships.

The 96 ships in the RRF are funded under a separate part of our budget. Our FY 1991 request is $225 million. Regarding the 45 vessels that are retained as a

result of Title XI defaults, the maintenance of those ships and the cost of supervision comes out of the Title XI fund. With the Navy retention ships, unless the Navy gives us money to rehabilitate one, we absolutely do nothing on it.

Senator BREAUX. How much does the storage and upkeep of the Title XI vessels cost us?

Mr. LEBACK. Well, the moorings within the fleet sites are free, and any work that is performed on them by the fleet labor is reimbursable internally from the Title XI fund back into the NDRF fund. I could not give you the exact number.

Senator BREAUX. You said the moorings are free?

Mr. LEBACK. We own the moorings, yes.

Senator BREAUX. Well, do not you have Title XI vessels stored in private moorings around the country?

Mr. LEBACK. Yes, there are. But, as I said, in addition to that, we do have 45 within the fleet sites. We do have some of the vessels, I think, in southern Louisiana.

Senator BREAUX. You have them stacked up all over south Louisiana. They are not doing that for free, are they?

Mr. LEBACK. No.

Senator BREAUX. No way.

Mr. LEBACK. No, I did not want to mislead you. I said we had 45 Title XI vessels at the reserve fleet sites.

Senator BREAUX. In RRF?

Mr. LEBACK. These vessels are not in the RRF, but are moored at out three NDRF sites. Since MarAd owns the fleet sites at Suisun Bay, Beaumont, and James River, when we take in a ship in default, we put it there when possible, rather than put it out to a private dock.

In the case of southern Louisiana, I think those are mostly offshore supply boats and maybe a drilling rig or two.

Senator BREAUX. How much does all of that cost you, the vessels that are in private hands for storage?

Mr. LEBACK. I do not have those numbers at my fingertips, but I could supply it. It is nominal. And it comes out of a separate fund. It does not come out of the NDRF fund. It comes out of the Title XI fund.

[The following information was received for the record.]

The cost of the three Title XI vessels at private dock space is $3,614 per month.

Senator BREAUX. Okay. Let me see if my colleague on the on the other side of the Mississippi River has any questions.

OPENING STATEMENT BY SENATOR LOTT

Senator LOTT. Thank you, Mr. Chairman. I do have an opening I would like to have included in the record immediately following your statement at the beginning.

Pursuing the questions with regard to the NDRF, but specifically with regard to the Ready Reserve Fleet, just yesterday in questions before the Armed Services Committee we were hearing from General Johnson and the Assistant Secretary of Defense about that particular area.

I have information that indicates that maybe as much as a third of that Ready Reserve Fleet, when they need to mobilize, when they need to get up—I believe you have an annual process, do you not, where you try to get those Ready Reserve ships moving—that up to a third of them are not ready to go. And only two thirds of the Ready Reserve is actually of the quality that we would need if we did have

a full mobilization. And that you have funding in this authorizing legislation to help get that fleet really up to a ready reserve level.

Is that accurate? What is the funding for that particular part?

Mr. LEBACK. $225 million.

Senator LOTT. $225 million.

Is my information right about how ready those ships really are?

Mr. LEBACK. Let me correct the number. It is $225 million total which is requested for this fiscal year. Of which $49.4 million is for acquisition of additional vessels as part of a program to bring the Ready Reserve Force up to level of 142 by 1994 as directed by DOD; and $171.6 million is for the maintenance and repair and activations.

It is true some of the RRF vessels have not been broken out since they were put in there. However, we have run four or five break outs for many years as annually for many years as directed by DOD or rather the Navy, as to what type of vessels are to be broken out. And those vessels have been successfully broken out within the time frame that has been required, whether it is a five day notice or a 10 day notice or a 20 day notice.

There has been a substantial increase in funding for 1991 over 1990, as far as the RRF maintenance and repair is concerned. In 1990, our request was reduced on the maintenance and repair to $89 million, I believe it was, basically because the funding was out of the domestic sector, rather than out of the Navy's budget, which it had been heretofore.

When I came in as administrator, the Navy and DOD and MarAd agreed it was in the best interest of the sealift program and the Ready Reserve Force to put it back into the funding as a national defense item. And the numbers that we are requesting here are so classified.

Senator LOTT. You say in your statement that the RRF program is a key part of the Nation's overall defense strategy of sealift, readiness and rapid reinforcement. Our concern on the Armed Services Committee and my concern here is that it is a key part and it is in a deteriorated condition. And as we change our worldwide arrangements in the way we deploy, we are going to be even more dependent on this sealift capability.

And frankly I am not as concerned about who pays for it as I am of the fact that it is done. If we are going to maintain these ships, I think we need to keep them where they can be broken out quickly. And the whole number you say is 140 something. I am inclined to agree with my neighbor here that I really question why we should maintain the NDRF. They are really not usable. And I would rather take some savings there and put it over into getting all these ships ready to move.

You are going to work in that direction, I take it. How much progress do you think you can make this year?

Mr. LEBACK. Well, first off, let me go back and restate that the NDRF, that 117 ships that are in question, only costs us about $2 million in upkeep. The only advantage that we have in retaining them is that—well, there are two things—they could conceivably operate as the replacement and downstream, after 120 days or so that we have broken out everything that we have in the RRF and the commercial fleet.

We did two full activations in 1985 on two Victories. One took 60 days on straight time. The other one took a little over 100 days, but it was a split contract between a topside repair yard and a yard that had a dry dock, again on straight time. The numbers were somewhere between the

$2.5 million to $3.8 million to react. The question is should we dispose of these now and then be forced at some point in time to either acquire new vessels

at world market rates if there are any, or build new vessels, which would cost substantially more than breaking them out.

Senator LOTT. What is the status of the maritime review that is currently underway that you are doing with DOT as I understand it?

Mr. LEBACK. Yes, sir.

As I stated earlier, it is underway. It is in the final stages of completion. We expect to have it out soon.

Senator LOTT. Well, we do have some other witnesses, and maybe the Chairman has some more questions; but let me just make the point to you that I have been making everywhere I go. Twenty years ago we were talking about our concern about our maritime fleet and Merchant Marine capability, we were going to do something about it. We had a lot of talk about it in 1972 and 1973. People continued to express great concern and how it definitely affects national security and sealift capability. And we have continued to sink right down to the bottom.

I would love to see this Administration quit talking about it and get up and do something about it. I would like to see you in your position provide a little leadership here. I am not real concerned about how we do it as long as we do something. I think the cargo preference is something that we ought to insist on, personally.

But it is long past time to be talking about it and complaining about it. We ought to do something about it. And I would hope that if the Administration does not get going that maybe this Subcommittee would initiate some things. And if we do, you all might not like what is in it.

Thank you, Mr. Chairman.

Senator BREAUX. Let me just ask one other point. As part of the review that Senator Lott mentioned, do you know if there is consideration—we are talking about the Ready Reserve Fleet and the other fleet—of taking the money that we are spending, and you are spending an awful lot in the Ready Reserve Fleet, and using some of those funds, instead of keeping a mothball fleet, try and use it into a realistic ODS program, which would generate more ships from the private sector which would be available on call and not sitting mothballed, but operating with trained crews and seamen who are ready to move?

I mean you can do something other than just go out and buy new ships for the government. You could use those funds—how much are we spending on RRF a year?

Mr. LEBACK. The total request for this fiscal year is $225 million. For FY 1985-89, the Navy and MarAd budgets for the RRF averaged $191 million. The lowest amount was $110.7 million in FY 1989. In FY 1990, the amount was $89 million.

Senator BREAUX. Okay. So $200 million that if we were not spending it on our mothballed fleet and we used it for a realistic ODS program, what would that accomplish?

Mr. LEBACK. In all probability it would result in additional vessels within the active U.S.flag fleet. As you pointed out, they would be active, they would have the trained seamen there, and so forth. I think, also, we need to look at the fact that we need to have support for the American flag, which has lagged since the early 1970s when one of my predecessors, Andy Gibson, established the National Maritime Council that took the American share of cargo from somewhere of a low of about 23 percent on the liner side, to well over 35-38 percent.

It was an effort to have the American importer and the American exporter support the American flag, where the service was reliable, the service was of quality, and the rates were competitive. I think we need to have our importers

and exporters support the American flag where those three things are available to them.

Senator BREAUX. I agree with that. But back to the proposition of utilizing some of the funds or all of the funds that we are now spending on a mothballed fleet for an ODS program. The specific question is, do you know if that has been considered as part of the maritime review? And if it has, what is the result of that consideration of that particular concept?

Mr. LEBACK. That has not been specifically considered. It is in the review and in the work that has been done heretofore, in conjunction with the DOD. I think that most all of us recognize it is far better to have an active fleet with trained mariners out there than it is to have a mothballed fleet, provided, of course, that a sufficient number of militarily useful ships remain available to meet sealift needs in the early stages of conflict.

Senator BREAUX. Well, if you, as the maritime administrator, agree with that, and I think Senator Lott and I, as the ranking member and Chairman of the Subcommittee on the Senate side, and probably the House side as well, think that is a good idea, why is it not even being considered by the Administration, which is reviewing options to breath life into an otherwise dying industry?

Mr. LEBACK. That is a question that you have brought up and I cannot really answer it. I think it has probably been overlooked, but it is an area to take another look at. We also have to work very closely with the sealift requirements of the Defense Department before we make that decision.

Senator BREAUX. Okay.

Senator LOTT. Let me just ask one more question.

Another thing that I have been checking into and discussing with our trade representative is the subsidies that the shipyards in other countries are enjoying. You know there have been negotiations in the OECD and we have concern, about Korea and Europe and the GATT that is coming up. I wonder if you had any comments or thoughts on that.

There was some pessimism about what was going to come out of it, and it has gone back and forth. I understand the Europeans now are showing a real reluctance to enter into the type of agreement we would need to eliminate these massive subsidies in our competitors' shipyards.

What is your thought on that?

Mr. LEBACK. Well, certainly, you would like to see, in the interest of our shipbuilding industry, as far as the competitive nature out there in the world, that they would have as equal access to foreign orders as the shipyards in Korea, Japan and Western Europe, who subsidize their operations very heavily.

You certainly, as an American, would have to support the position to eliminate subsidies and provide means for our industry to be competitive.

Senator LOTT. How do you propose to do that?

Mr. LEBACK. The elimination of subsidies?

Senator LOTT. Assuming that they do not eliminate their subsidies, what is the means you advocate to make our shipyards competitive? Did you not say that?

Mr. LEBACK. No, I did not say that. I said we should eliminate their subsidies. It is a well known fact that the cost per hour in our shipbuilding industry is slightly below the West Germans on the European side, and slightly above the Japanese. The problem is, to get productivity to equal what they can achieve in Japan or the Far East and Western Europe and, more importantly, to take the subsidies away from those shipyards.

Senator LOTT. And if we do not get an agreement for those subsidies to be eliminated, what should we do then?

Mr. LEBACK. I have not thought about that at this point. I think you would have to go back to the drawing board, Senator.

Senator LOTT. Of course there is section 301 of the Omnibus Trade and Competitiveness Act of 1988.

Mr. LEBACK. That is right, 301 would be there.

Senator LOTT. But I would think also that we should be prepared to take other actions as a government in defense of our own shipbuilding capability. Otherwise, we are going to wake up here in a few years and we are not going to have it.

Mr. LEBACK. That is right.

Senator LOTT. We cannot continue to depend just on military shipbuilding. We are looking for some ideas and some leadership from you.

Mr. LEBACK. Right. We will see what happens and then we will go back to the drawing board.

Senator LOTT. All right, sir.

Senator BREAUX. Okay. Thank you, Senator. And thank you, Mr. Leback.

And, gentlemen, we appreciate your appearance before the hearing and look forward to working with you.

We will be submitting questions for you to answer for the record.[1]

Senator BREAUX. Let us bring up now the Acting Chairman of the Federal Maritime Commission, Mr. Jim Carey, who is accompanied by some of his assistants.

We welcome you. We are glad to have you here and look forward to your testimony.

STATEMENT OF HON. JAMES J. CAREY, ACTING CHAIRMAN, FEDERAL MARITIME COMMISSION; ACCOMPANIED BY ROBERT D. BOURGOIN, GENERAL COUNSEL; AND BRUCE A. DOMBROWSKI

Mr. CAREY. Thank you, Mr. Chairman.

I would like to submit my formal statement for the record, and with your permission, summarize it.

Senator BREAUX. That would be acceptable.

Mr. CAREY. Appearing with me today to assist in answering any questions you might have are Bob Bourgoin, the Commission's General Counsel, and Bruce Dombrowski, the Deputy Managing Director.

The budget request I am presenting today totals $15,894,000 and provides for 230 work years of employment. That is an increase of $442,000 above our fiscal year 1990 appropriation and includes increases of $347,000 for pay increase and retirement program costs, $29,000 for additional travel for our investigators and $66,000 which is increased rent and some other minor administrative expenses.

As you are aware, the Commission's budget is strictly an operating budget and, consequently, involves only a very limited amount of discretionary spending.

We continue with the implementation of the Automated Tariff Filing and Information system, the acronym being ATFI, as a major initiative in fiscal year 1991. As you know, rates and charges of ocean common carriers and conferences are filed in tariffs, and they are maintained in binders available for inspection at

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[1] As of press time, November 28, 1990, the responses to the questions had not been received.

the Commission's headquarters here in Washington. ATFI, however, for the first time will provide for the electronic filing and processing and the retrieval of the information that is contained in these tariffs.

This new state-of-the-art system will decrease the filing burden on the ocean transportation industry and make it much easier for the public to retrieve the information from particular tariffs. And, it will also permit the Commission staff to analyze tariffs and to investigate irregularities much more effectively.

Phases I and II of that system, finalizing the system concept and system design, have been completed and accepted by the agency. Phases III and IV, which are system development and testing and the prototype operation, were contracted for on February 5 of this year, and I would expect full operation of the system to be phased in throughout calendar year 1991.

I would like to stress that we are incorporating new technology into this system, where appropriate, so that our final system is going to be as up to date as possible. This may possibly result in a slightly longer prototype phase than we originally anticipated, but I still expect the final implementation to be on time.

We very much appreciate your past support on ATFI and look forward to the day, truly, when I can come here and tell you that the system is fully on line.

During the past year, we continued to emphasize our enforcement program, focusing primarily on two specific areas: commercial malpractices and practices of foreign governments that adversely impact our foreign commerce. With regard to commercial malpractices, the program is designed to punish existing competitive malpractices and to deter such malpractices in the future. And we do that through targeting a specific trade and then using both trade intelligence and some targeted planning, and then the allocation of major resources—translated that means investigators—to the program.

Our intensified enforcement efforts in the transpacific trades have proven to be quite successful. Two major steamship lines serving the Pacific trades that were charged with unlawful rebating recently entered into settlement agreements with the Commission, one for $2.5 million, the other for $1.25 million. These carriers also agreed to make full disclosure of who the rebates were paid to and to cooperate with the Commission staff in efforts to bring an end to these unlawful activities.

Last year, we collected a Commission all-time record total of $4.7 million in fines and penalties. For fiscal year 1991 we plan to continue to target carriers and commodities and malpractices that have the greatest impact on U.S. ocean commerce. However, as I have said here repeatedly, our goal is not simply the collection of fines and penalties, rather we strive for a strong deterrent impact and always keep our sights on the program's overall objectives of ensuring compliance with the law as passed by the Congress and trying to create equitable trade conditions.

And I firmly believe that the industry, through trade wide self-policing programs, can greatly assist us in our efforts to ensure that the U.S. trades are both clean and competitive.

In fiscal year 1989 the Commission was, again, also very active in identifying and correcting unfavorable conditions in shipping in the U.S. foreign trades. In this regard, we have found unfavorable conditions existed in Peru and Ecuador as a result of activities of their governments. To resolve these problems, we imposed fees against the carriers from those countries.

In the case of Peru, however, after consultation with the Department of State, we suspended the application of those sanctions due to that country's serious economic and political conditions. But overall, I am satisfied that we have been very effective in this area.

Fiscal year 1989 was also noteworthy because the Commission initiated its first formal proceeding under the Foreign Shipping Practices Act of 1988. We used the new authority you gave us, I think, quite effectively to investigate shipping conditions in the U.S./Taiwan trade, particularly restrictions affecting intermodal operations of U.S. flag carriers.

Based on the resolution of a majority of the issues and the commitment to resolve those remaining, we discontinued the proceeding on the basis of obtaining the necessary compliance. We continue to monitor that trade very closely to assure that there is no reoccurrence of what was going on there.

In my opinion, these actions indicate that the Commission has a variety of weapons to employ against unfair maritime practices, and that we have demonstrated the will and the ability to use them.

Mr. Chairman, as the subcommittee is aware, on September 20, 1989, we submitted our report to the Congress on the impact of the Shipping Act of 1984. The report was required by section 18 of the Act and is the culmination of five and a half years of data collection and research and analysis on the impact of the Act upon the international ocean shipping industry. It includes the data collected on the issues required by section 18(a) of the Act and the special report topics on tariffs and ports required by section 18(c).

It also includes separate parts on service contracts, independent action and provisions of the Act that may need clarification. And we stand fully ready to provide any additional information and assistance to the new Advisory Commission on Conferences in Ocean Shipping, as it conducts its review process.

During consideration of our authorization bill in the House, an amendment was adopted that resulted in the inclusion of the text of H.R. 3185. And, Mr. Chairman, the Commission fully supports this amendment, because we feel it updates one of our tools with which we can address unfair foreign maritime practices, that being Section 19(1)(b) of the 1920 Merchant Marine Act, by conforming it procedurally to the Foreign Shipping Practices Act of 1988 and by codifying the Commission's past interpretations of this important provision.

By so doing, the amendment clarifies that Section 19 applies to the U.S. trade in general and as a result ensures that U.S. exporters and importers will maintain their ability to select the carrier of their choice. It also clarifies that Section 19 applies to all activities integral to ocean transportation systems including, most importantly, intermodal operations.

And another aspect of the amendment that would make Section 19 even more effective is the Commission's ability to obtain information about unfair foreign maritime practices from virtually anyone who might have such information. So in my opinion this amendment improves Section 19, and I would strongly urge your support of it.

Mr. Chairman, we respectfully request favorable consideration of our budget and we ask for your continued support so that we may continue to carry out our important statutory responsibilities in fiscal year 1991.

I would be happy to respond to any questions.

[The statement and questions and answers follow:]

STATEMENT OF HON. JAMES J. CAREY, ACTING CHAIRMAN, FEDERAL MARITIME COMMISSION

Mr. Chairman and members of the Subcommittee, it is a pleasure to appear before you to present the Federal Maritime Commission's authorization request for fiscal year 1991.

With me today are Robert D. Bourgoin, the Commission's General Counsel, and Bruce A. Dombrowski, the Deputy Managing Director.

The authorization request I am presenting today totals $15,894,000 and provides for 230 workyears of employment. This is an increase of $442,000 above our fiscal year 1990 appropriation. It includes increases of (1) $347,000 for salary and benefit costs to support Commission programs; (2) $29,000 for additional travel expenses; and (3) $66,000 for administrative expenses.

The Commission's budget is strictly an operating budget and, consequently, involves very limited discretionary spending.

As you are aware from previous hearings, one of the Commission's major efforts, that will be continued in fiscal year 1991, is the implementation of the Automated Tariff Filing and Information System ("ATFI"). Currently, rates and charges of ocean common carriers and conferences are filed in tariffs and maintained in binders available for inspection in the Commission's Washington, D.C. headquarters. ATFI, for the first time, will provide for the electronic filing, processing and retrieval of information contained in ocean carrier tariffs. This will decrease the filing burden on the ocean transportation industry and make it easier for the public to retrieve information from particular tariffs. This state-of-the-art system will also permit Commission staff to analyze tariffs and investigate irregularities more thoroughly.

On August 8, 1989, the FMC awarded a contract to Planning Research Corporation, teaming with Data Exchange International, for the first two phases of the ATFI project. Their proposal was the best technically, and at the lowest cost of the eight offerors. The contract, if all options are exercised, is valued at approximately $4.6 million.

Phases I and II, finalizing the system concept and system design, have been completed and accepted by the Commission. Phases III and IV, system development and testing and prototype operation, were contracted for on February 5, 1990. Full operation of the system is expected to begin in fiscal year 1991. When appropriate, we continue to incorporate new technology to ensure that the system will be up to date and provide for future public and Commission needs. Incorporation of these refinements may result in a three to six month longer prototype phase than was first anticipated. We believe the benefits of these refinements will clearly outweigh the inconvenience of a short extension necessary to thoroughly test the system.

The Commission appreciates your support of ATFI over these past few years. I look forward to the day when I can appear before you and state that the system is fully on-line.

The Commission has continued to emphasize its enforcement efforts during the past year. These enforcement efforts are directed at two specific areas: commercial malpractices and practices of foreign governments that adversely impact our foreign commerce. With regard to commercial malpractices, the Commission's enforcement program is designed to punish existing competitive malpractices and deter such malpractices in the future. This is achieved through targeting a specific trade, precise planning, using trade intelligence, and allocation of major resources to the program.

In the Transpacific trades, our intensified enforcement efforts have succeeded. Two major steamship lines serving the Pacific trades that were charged with unlawful rebating recently entered into settlement agreements with the Commission, one for $2.55 million, and the other for $1.225 million. These also agreed to make disclosures and cooperate with the Commission's staff in its efforts to end unlawful rebating. Additionally, hearings and other investigatory activity in Fact Finding Investigation No. 18 have developed valuable information, identified malpractices, and facilitated enforcement claims against alleged violators.

In fiscal year 1989, we collected a Commission-record total of $4.733 million, and we expect the amount of penalties collected to exceed the FY89 total in fiscal year 1990. In fiscal year 1991, we will continue to target carriers, commodities and malpractices that have the greatest impact on the U.S. ocean commerce.

As I have said repeatedly, however, our goal is not simply the collection of penalties. We strive for an appropriate deterrent impact, and always keep our sights on the program's overall objectives of ensuring statutory compliance and creating equitable trade conditions. I believe that the industry, through trade-wide self-policing programs, can greatly assist in ensuring that our trades are "clean" and competitive.

In fiscal year 1989, the Commission was again identifying and correcting unfavorable conditions to shipping in the U.S. foreign trades. The Commission found that unfavorable conditions existed in Peru and Ecuador, as a result of certain government actions. To resolve these problems, the Commission imposed fees against carriers from these countries. In the case of Peru, however, the Commission, after consultation with the Department of State, suspended application of these sanctions, due to Peru's economic and political conditions.

Fiscal year 1989 was also noteworthy because the Commission initiated its first formal proceeding under the Foreign Shipping Practices Act of 1988. The Commission used its new authority to investigate shipping conditions in the U.S./Taiwan trade, particularly restrictions affecting the intermodal operations of U.S.-flag carriers. Based on commitments to resolve certain shipping issues, anticipated progress on other issues, and the absence of any request for sanctions against foreign carriers, the Commission discontinued this proceeding. We continue to monitor this trade closely, however.

These various actions indicate that the Commission has a variety of weapons to employ against unfair maritime practices and the will and ability to use them. We believe that our resolve to press

forward creates an environment which encourages foreign governments to voluntarily alter objectionable practices prior to the imposition of penalties.

Mr. Chairman, as the Subcommittee is aware, on September 20, 1989, the Commission submitted a report to Congress on the impact of the Shipping Act of 1984. This report was required by section 18 of the Act and is the culmination of five and one- half years of data collection, research, and analysis. The Commission collected and analyzed information on the Impact of the Act upon the international ocean shipping industry, including data on: (l) increases or decreases in the level of tariffs; (2) changes in the frequency or type of common carrier services available to specific ports or geographic regions; (3) the number and strength of independent carriers in various trades; and (4) the length of time, frequency, and cost of m ajor types of regulatory proceedings before the Commission. The report also covered special topics on tariffs and ports, as required by section 18(C), and contained separate parts on service contracts, independent action, and provisions in the Act which might benefit from clarification and/or technical adjustment.

The Commission stands ready to provide information to the Advisory Commission as it conducts its review process, and, pursuant to section 18(g)(3) may be requested to provide staff personnel to assist the Advisory Commission.

During consideration of H.R. 4009 before the House of Representatives, an amendment was offered and adopted which resulted in the inclusion of section 3 of the bill. This provision is the text of H.R. 3185, which had previously been introduced by Congressmen Lent, Jones, and Davis. The Commission fully supports this amendment. It updates section l9(1)(b) of the Merchant Marine Act, 1920, by conforming it procedurally to provisions of the Foreign Shipping Practices Act and codifying past Commission interpretations, particularly as to geographic scope and persons protected. This amendment would improve section l9(1)(b strongly urge that it be included in your final bill.

We respectfully request favorable consideration of our budget and we ask for your continued support so that we may carry out our important statutory responsibilities in fiscal year 1991.

I will be happy to respond to any questions.

QUESTIONS OF THE COMMITTEE AND THE ANSWERS THERETO

Enforcement Over the past year, the FMC has been investigating possible discriminatory practices by several of our trading partners. Please review the various enforcement actions initiated by the Commission this past year.

1. Peru The Commission has taken a number of actions pursuant to section l9(1)(b) of the Merchant Marine Act, 1920 ("Section 19") in the U.S./Peru trade due to a Government of Peru ("GOP") cargo reservation decree reserving 100 percent of Peruvian import and export cargoes for Peruvian-flag carriers. This decree denied non-Peruvian carriers access to the trade and restricted the ability of U.S. shippers to select the carrier of their choice.

Over the course of Commission proceedings, the GOP reduced the amount of cargo reserved from 100 to 50 percent. Nevertheless, in March 1989, the Commission issued a Final Rule finding that conditions unfavorable to shipping continued to exist in the U.S./Peru trade as a result of laws, regulations and decrees of the GOP. In the Final Rule the Commission established a system of countervailing fees to be paid by certain Peruvian- flag carriers for each voyage in the trade made subsequent to the rule's effectiveness. Subsequently, after consultation with the Department of State, the Commission suspended the effective date for application of these fees due to prevailing serious political and economic conditions in Peru.

The Commission is periodically requesting the Department of State provide it with current information on the political and economic conditions in Peru so that the Commission may determine whether it should reconsider the suspended effective date of the countervailing fees. To date, the situation in Peru has not improved sufficiently to permit the FMC to impose the prescribed penalties.

2. Ecuador The Federal Maritime Commission instituted an inquiry into laws, regulations and policies of the Government of Ecuador ("GOE") affecting shipping in the United States/Ecuador trade to determine whether action pursuant to Section 19 was warranted. This inquiry was initiated as a result of allegations made by Overseas Enterprises, Inc. ("OEI"), a U.S.-owned company, that it had been unable to reestablish a liquid bulk service in the trade due to GOE cargo reservation laws.

I n January 1990, the Commission issued a Final Rule finding unfavorable conditions to exist in the trade which arise from GOE cargo reservation laws and regulations. The Commission assessed a fee of $50,000 per outbound voyage from the U.S. to Ecuador on Transligra, S.A., an Equadorian-flag parcel tanker carrier. Transligra was the chief, if not sole, beneficiary of the Ecuadorian cargo reservation resolution in question.

In February 1990, the Commission was informed by Transligra that it had sold the Ecuadorian-flag parcel tanker it had been operating in the trade and that neither it nor any related company now operates or plans to operate any Ecuadorian- flag vessel, qualifies for benefits under the GOE cargo reservation laws, or can transport cargo in the Ecuadorian trade without a government waiver.

The Commission is informed by OEI that it is currently being permitted to operate in the trade under certain conditions.

3. Taiwan In July 1989, based on the responses to an earlier compulsory process order issued pursuant to section 15 of the Shipping Act of 1984, the Commission initiated its first investigation under the Foreign Shipping Practices Act of 1988. The proceeding focused on certain restrictions which allegedly hampered the ability of U.S. carriers to conduct intermodal operations in Taiwan. The restrictions at issue involved off- dock container terminal operations, inland trucking operations, including truck licensing, chassis registration and repositioning of containers, and shipping agency operations.

Based on the resolution of certain issues in the proceeding, as well as anticipated further progress on other issues, and the absence of any request for specific sanctions by the interested U.S.-flag carriers, the Commission discontinued the proceeding but indicated that it would require a report on the status of shipping conditions in the trade by mid-1990.

On December 26, 1989, the Commission served an order requiring the U.S. and Taiwan carriers serving the trade to report on current conditions in the trade by June 30, 1990. These reports have or are now being filed and will be reviewed to determine whether further FMC action is necessary.

GATT What are your views on including maritime services in the GATT negotiations? While I support the efforts of GATT to liberalize trade, to include maritime services within the GATT could deny U.S.-flag carriers and other U.S. shipping interests the protection against foreign government discriminatory and restrictive maritime trade practices now provided by various FMC- administered statutory provisions, i.e., section 19(1)(b) of the Merchant Marine Act, 1920 ("Section 19"), section 13(b)(5) of the Shipping Act of 1984 and the Foreign Shipping Practices Act of 1988 ("FSPA").

What, in your opinion, would be the effect on the U.S. maritime industry of including maritime services? From the Commission's perspective, as noted above, inclusion of maritime services within the GATT could supersede Commission statutory authority under Section 19, section 13(b)(5), and the FSPA. Under the GATT regime, if U.S. maritime interests face restrictive practices of foreign nations, these U.S. interests might be obliged to use a GATT dispute settlement mechanism.

Further, it would appear that the effect of inclusion of maritime services in the GATT would depend on whether a services agreement reached would be applied in full or on a limited basis to the maritime sector. If applied in full, the effect on the maritime industry could be far reaching. It is my understanding that under such an agreement, U.S.-flag vessels would in all likelihood lose protection in U.S. intercoastal trading. Further, U.S. cargo reservation programs for U.S.-flag carriers would probably be removed. Additionally, the agreement could affect U.S. maritime-related treaty obligations, U.S. may not be allowed to offer one country's vessels preferential treatment over another country's vessels.

Senator BREAUX. Thank you very much.

And let us start with section 19, since you concluded with that. As you know the House had passed in their authorization bill the amendment which would basically codify, as I understand it, your existing regulations which would provide shippers and also the foreign flag carriers the right to petition the Federal Maritime Commission.

We have heard from some of the U.S. flag carriers that are engaged in foreign trade, who have stated that they oppose the amendment. And, I guess, essentially what they are telling us is that, first, the intent of the Act is to protect U.S. maritime interest, not foreign interests; that was one of their criticisms.

And, secondly, they point out that many of the foreign countries engage in cargo-sharing agreements to which the United States is not a party. And they claim, it does not make sense for us, as a government, to be engaged in protecting foreign carriers from unfair trade practices in the U.S. trade that are the same as practices that they take advantage of in the foreign trade.

So, anyway, those are legitimate points, and I need you to respond to them, since you support the amendment.

Mr. CAREY. Well, we support the amendment in particular because, one, it codifies our current interpretations of the law, and to the degree that there is also an interest of U.S. importers and exporters in being able to pick the carrier of their choice, this in fact gives them rights under the law.

And then, finally, we are also looking to be able to gather information on any discriminatory practices, not just from common carriers, but also from shippers and others.

Senator BREAUX. I appreciate that, but I am just wondering from a U.S. flag carrier perspective, which we are trying to encourage, I can understand their hesitancy in allowing one of our agencies to be involved in seemingly protecting their competition. And I know that is apparently already in the regulations, but to codify it sort of nails it down.

To help shippers is a worthy goal. I am concerned that in doing that, you are disadvantaging U.S. flag operators. Is that not a legitimate concern?

Mr. CAREY. Well, sir, I guess, my interpretation of it would be, based on all of our past actions, that the law provides for third flag carriers to also have the ability to participate in our trades. And with the importers and exporters, you are also looking at U.S. jobs in the operations that they run with U.S. shippers.

So, I think, the law, as it is currently constructed—and all this would be is codify what we are already doing—provides for fair, free and open competition. That is really how we have always looked at Section 19, to provide for open competition, so that when foreign governments are taking actions that discriminate against either U.S. flags or third flags that open competition is there as provided for in the law.

Senator BREAUX. Thank you.

Let me ask about automated tariff filing systems. I know progress apparently is being made in implementing the automated tariff system. We have had some concern expressed by the private sector that in developing the automated tariff system that you are becoming engaged in direct competition with the private sector and that, you know, they do not feel that the government ought to be doing that.

Can you give me an update on where we are with the automated tariff system and respond to the concern expressed by some of the private operators?

Mr. CAREY. Yes, sir. Let me take the last part first. Indeed, I would not say we are in competition with the private sector because, in fact, we let the contract to the private sector to put the system together. And that system would, indeed, be operated by the private sector, i.e., that particular contractor. So we are not really in competition.

I think one of the initial concerns was that we would get into the value added or value enhancement of that data and be in competition with the rest of the automated information industry. That is not our intent. And, in fact, in keeping with statutory restrictions, it will have very elementary access by the public.

To address the first part of your question—the status of it—we have made what, I guess, in nautical terms I would say, is a mid-course correction. Since the contract was let two years ago, there has been significant progress made in some of the technology that has been developed for use in this area. And, indeed, we became aware of a particular approach that, when we looked at it, quite frankly, looked a lot more user friendly and of a lot more value to the maritime industry and the tariff filers and the tariff retrievers than what we were developing.

So it just made good sense, since technology had made some progress in that two years to take a hard look at it, which we did. And we are now incorporating that into the automated tariff filing system at no additional increase in the contract—in the maximum contract cost. And I think it just makes good sense.

That may set us back three or four months in the time frame that will be involved to incorporate that into the developing programs, but overall, I think we will gain time in the implementation side. And, so, I am confident that the system will, as we have testified before, be up and operational in calendar year 1991, towards the end of the year.

Senator BREAUX. Senator Lott, any questions?

Senator LOTT. Thank you, Mr. Chairman, and thank you for being here today.

Mr. CAREY. Yes, sir.

Senator LOTT. We are glad to see you. Of course, you do not have a very large budget, a total of $15,894,000; but I notice that you do have increases in salary and benefit costs, additional travel expenses and additional administrative expenses. Why?

Mr. CAREY. Well, the pay raise takes—I mean, there will be a pay raise presumably. So that is a part of the salary cost. The travel costs are just additional travel for our investigators as we get more involved in some of the different areas of the world. The administrative costs include, at least in part—is a rent increase, and other general, administrative type things.

Senator LOTT. It looks like you are making good progress with the ATFI.

Mr. CAREY. Yes, sir.

Senator LOTT. And I think, while there are some questions that have been raised, it is going to be very helpful in general.

In your testimony you also point out that your enforcement efforts include commercial malpractices and practices of foreign governments that adversely impact our foreign commerce. I do not know how much activity you have had in this area, and a lot of it, I guess, is not based on statistics. But I have a very strong feeling that practices of foreign governments are eating our lunch. How do you react to that?

Mr. CAREY. I agree. And to the degree that we are made aware of them and can prove it, we have taken action. In the case of Peru and Ecuador——

Senator LOTT. Well, I was going to say, I want to cite that one in particular, in the case of Peru. But go ahead.

Mr. CAREY. And then a major one under the new powers that you all gave us under the Foreign Shipping Practices Act of 1988, we moved in on the Taiwan situation, and———

Senator LOTT. Well, you say in your own testimony that, after consultation with the Department of State you suspended application of sanctions due to Peru's economic and political conditions. That does not sound like very good reasoning to me if they are engaging in unfair trade practices.

Mr. CAREY. Well, to the degree that we could impose the sanctions and, indeed, they could pay the penalties that were involved, I think, we would have left them in place. But the advice that we had was that the economy there was in such a shambles and State asked us to take another look at it.

Senator LOTT. Did Peru correct the problem?

Mr. CAREY. Let me ask my General Counsel on that.

Mr. BOURGOIN. Pardon, sir, could you repeat that?

Senator LOTT. Did Peru correct the problem?

Mr. BOURGOIN. No. To our knowledge, they have not. We get periodic updates from the State Department. The situation down there has not improved considerably, but they have recently had elections. So, hopefully, it will improve to the point where we can put our sanctions into place. But at the present——

Senator LOTT. What is the practice that they——

Mr. BOURGOIN. They were reserving a substantial percentage of the cargo in the trade to Peruvian flag vessels.

Senator LOTT. You cannot blame them for that. But, if they are violating something they should not, I do not think you ought to be changing your position just because the State Department raises political considerations. I am very sympathetic to Peru. I think they are making progress like a lot of those South American countries. But that is why I am concerned.

I think that when the State Department feels like it is convenient for us to yield on some of these abusive practices because of other political considerations, we roll over. I do not think that is a good idea.

Mr. CAREY. Well, sir, we the Commissioners felt that they, indeed, had made their case on it. In the cases where they have not, Taiwan being a good example, we did not back off in the least. And we achieved every goal in the Taiwan situation, and that was the first time we were able to use the 1988 law, and it proved to work. We were able to work within the very constrictive time frames.

Senator LOTT. Congress enacted the Controlled Carrier Act to prevent state-controlled merchant vessels from engaging in predatory rate practices. On June 1, the United States and the Soviet Union signed this new bilateral agreement allowing Soviet merchant vessels into 42 ports in the United States, including one or maybe two in my state.

I understand that U.S. vessel operators are concerned that the new agreement does not adequately safeguard against Soviet predatory rate practices.

Was the Commission consulted by the agencies involved in negotiating this new maritime agreement?

Mr. CAREY. No. However, we participate as a technical adviser in a maritime discussion group. I do not necessarily agree with whoever the carriers are that are concerned. This is not a treaty. This is just an agreement; therefore, all of our laws remain in effect. We still have the Controlled Carrier Act and the——

Senator LOTT. Will they be subject to the Controlled Carrier Act?

Mr. CAREY. Yes, sir. Absolutely.

Senator LOTT. Does the agreement require the Soviets to join liner conferences so as to be subject to the Controlled Carrier Act?

Mr. CAREY. One does not go with the other. In other words, they do not have to join a conference in order to be subject. They are subject to the Controlled Carrier Act because they are 50 percent or more owned by their government. That is just not Communist or Eastern Bloc countries. That is any country that owns 50 or more percent of the line.

Senator LOTT. Well, thank you very much. I would just like to encourage you to be very, very aggressive in your enforcement efforts. I think there is a lot more that needs to be done there.

Senator BREAUX. Thank you, Senator.

Mr. Carey, we have some other questions that we will submit to you in the interest of time, but we would ask you to respond to them and thank you for your appearance along with your colleague.

I would welcome Vice Admiral Francis Donovan, United States Navy, who is, of course, Commander of our Military Sealift Command.

Admiral, we are glad to have you here and are pleased to receive your testimony.

STATEMENT OF VICE ADM. FRANCIS DONVAN, COMMANDER, MILITARY SEALIFT COMMAND, DEPARTMENT OF THE NAVY

Admiral DONOVAN. Yes, sir. Mr. Chairman and Senator Lott, on behalf of Military Sealift Command I would like to thank you both for the opportunity to discuss Military Sealift Command's interest in and support for the maritime programs included in the fiscal year 1991 Maritime Administration Authorization Bill. I have submitted a statement for the record and will summarize my statement at this time.

Of the programs, I am particularly interested in the Ready Reserve Force, the RRF. This program has a great impact on the defense capability of the United States, and it needs the support of this committee to maintain its projected status

I would like to begin with a very brief background on Military Sealift Command and then describe how the RRF fits into our mission and why we find it so important. MSC is one of three component commands of the U.S. Transportation Command. As a component, the mission of MSC is to provide sealift to deploy and support U.S. forces worldwide. The Military Sealift Command is organized into three forces:

First, the Naval Fleet Auxiliary Force, which provides direct support to combatant ships at sea. These are our fleet oilers and store ships;

Second, the Special Mission Support Force, which provides ships for special missions such as oceanographic research, cable laying and repairing; and

Third, the Strategic Sealift Force, and it is the Strategic Sealift Mission that comes under the combatant command of TRANSCOM that is of chief concern in this forum.

The Strategic Sealift Force provides the assets that transport equipment and supplied worldwide for use by our armed forces. The Strategic Sealift Force has 61 commercially owned cargo ships and tankers under long-term charter to MSC and includes 25 ships in the Afloat Prepositioning Force.

During peacetime, Military Sealift Command transports more than 20 million tons of cargo annually on privately-owned U.S. flagships. In peacetime, sealift assets are readily available.

Our main concern, however, is the availability of sealift in a contingency or in a war. More than 95 percent of cargo and petroleum products required to support our deployed military forces is transported by Strategic Sealift. There is simply no other practical method to carry the vast quantities of supplies and equipment needed.

Furthermore, we cannot expect to have a catchup period to establish supply lines following the outbreak of any hostilities, so we must rely on the peacetime merchant marine augmented by what I look at as our transition force, the eight Fast Sealift Ships in the Ready Reserve Force, or the RRF. That is the basis for my interest in our maritime fleet and particularly the RRF.

RRF is a key component of the United States Navy's contingency sealift capability. There are currently 96 ships in the force. It is comprised chiefly of breakbulk ships which usually carry uncontainerized cargo. These ships, while no longer commercially profitable, are useful to the military because they are capable of carrying equipment such as tanks, trucks and helicopters and heavy equipment. Unfortunately for the military, today's container ship, while productive and profitable in the commercial trade, is not suited to carrying large pieces of military unit equipment.

The fleet of RRF ships provide the significant portion of the surge shipping, the capability to move unit equipment that would be required on short notice to support rapid deployment of U.S. forces. RRF ships are maintained in a five, ten or 20-day readiness status by the Maritime Administration. The RRF is programmed to increase to 142 ships by 1994. The growth and modernization of this force was jeopardized when 63 percent was cut from the fiscal year 1990 budget request to support the RRF. Budget authority for this vital force has been reclassified as a defense related item.

Military Sealift Command has particular dependence on the U.S. flag merchant marine in peace and in war. Strategic sealift becomes even more critical in a contingency as the number of forces stationed outside the U.S. are reduced. This is not the time to enter into precipitous actions that would result in a weakened defense posture and leave the United States and our allies militarily vulnerable.

Contingencies in Panama and Grenada, coupled with terrorism, regional disputes, resurgent nationalism and the President's drug control strategy, and the continuing responsibility to maintain freedom of the seas all point to a continuing reliance on a strong United States Navy and a strong and dependable U.S. Merchant Marines.

In the face of the changing nature of the commercial industry away from breakbulk to container operations, the U.S. Navy has made significant efforts to adapt to available shipping assets. During fiscal years 1982 through 1989, the Navy invested $7 million in various programs, including the prepositioning ships, the acquisition of Fast Sealift Ships, and the development and procurement of sealift enhancement features such as flatracks and seasheds, which is a large boxlike structure that can be inserted into the holds of regular container ships. This allows the container ship to carry military unit equipment.

Our primary strategic asset for surge shipping, however, remains the Ready Reserve Force. MSC peacetime assets augmented by U.S. flagships and U.S.owned ships operating under flags of convenience must be combined with the RRF in order to give us the capability to move our surge requirement for unit equipment. Because of its capacity to carry bulky outside cargo and its early availability, the RRF is an essential part of this capability.

I strongly recommend that this committee fully endorse the funding for the Maritime Administration and the funding that they require to support the RRF. MSC is a member of the task force which is developing recommendations to execute the national sealift policy signed by the President on October 5, 1989. That policy acknowledges that sealift, including the RRF, is essential to our national security and economic freedom.

In summary, the Navy has invested more than $7 billion in the past decade to meet our forward defense strategy and our strategic sealift requirements. The world is changing, and our capabilities must meet those changes. Funds are becoming more difficult to obtain during this period, however. We must work to ensure that the lift capacity which has been painstakingly developed and maintained in past years is not allowed to diminish.

That concludes my statement, and I am ready for your questions, sir.

[The statement and questions and answers follow:]

STATEMENT OF VICE ADMIRAL FRANCIS R. DONOVAN, USN COMMANDER MILITARY SEALIFT COMMAND

Mr. Chairman, members of the Subcommittee on Merchant Marine of the Senate Committee on Commerce, Science and Transportation: I am pleased to have the opportunity to discuss with you the Military Sealift Command's interest in and support for the FY 1991 Authorization for the Maritime Administration. I am particularly interested in the Ready Reserve Force Program which has a great impact on the defense capability of the United States. This program needs the support of this committee to maintain its projected growth.

First, a brief background on MSC. MSC is one of three component commands of the U.S. Transportation Command (USTRANSCOM), established in 1987 to provide common-user air, land and sea transportation and terminal services to deploy and support U.S. forces worldwide. The mission of MSC is to provide sealift to support our forces worldwide in peace and war. We have three forces: The Naval Fleet Auxiliary Force, Special Mission Support Force, and Strategic Sealift Force.

MSC's Strategic Sealift Force provides the assets to transport equipment and supplies across the oceans for use by our armed forces. This is the force that concerns us here. This force has 61 privately owned cargo ships and tankers under long-term charter, including 25 ships of the Afloat Prepositioning Force. During peacetime, MSC transports 20 million tons of cargo annually on privately owned U.S. flag ships.

Sealift assets in peacetime are readily available. Our main concern is the availability of sealift in a war or emergency. It should be noted that more than 95 percent of cargo and petroleum products required to support our military forces overseas must be transported by strategic sealift. No other practical method exists to carry the vast quantities of supplies and equipment needed. We cannot expect to have a catch-up period following the breakout of hostilities.

In such an event, we will rely on the ships of our peacetime merchant marine, augmented by our transition force- eight Fast Sealift Ships plus the Ready Reserve Force. That is why we have such an interest in our maritime fleet and the Ready Reserve Force (or RRF).

The RRF is a key component of the U.S. Navy's contingency sealift capability. It is comprised chiefly of breakbulk ships capable of carrying military unit equipment. There are presently 96 ships in the RRF with a goal of 142 ships in the RRF by 1994.

These RRF ships, no longer commercially profitable, are needed for national defense to carry unit equipment, such as tanks, trucks and helicopters, not capable of being carried on most commercial fleet ships. This fleet of RRF ships provides approximately one-third of the unit equipment surge shipping capability that would be required on short notice to support rapid deployment of U.S. forces. RRF ships are maintained by the Maritime Administration in a 5, 10, or 20-day readiness state.

The continued growth, modernization and maintenance of this force was jeopardized when Congress cut 63 from the FY 90 DoT RRF budget request. Budget authority for this vital force has been reclassified as a defense related item to emphasize its critical importance to this country's ability to deploy our forces around the world without allied support.

The Military Sealift Command places particular reliance on the U.S. flag merchant marine in peace and in war. Sufficient strategic sealift to move our in an era of reduced overseas basing. As members of this committee well know, this is not the time for the leading nation of the free world to enter into precipitous actions that would result in a weakened defense and leave us and our allies in a position of military vulnerability.

Contingencies—such as Panama and Grenada—terrorism, regional disputes, resurgent nationalism, the President's National Drug Control Strategy, plus the continuing responsibility to maintain freedom of the seas—all of these point to a continuing reliance on a strong U.S. Navy and, in turn, a strong and dependable U.S. merchant marine.

Not only has the number of ships in the U.S. flag merchant fleet decreased at an alarming rate over the past 20 years, but the type of commercial ship in use also has changed. Today's container ship, for example, while productive and profitable in commercial shipping, is not suited to carrying large pieces of military unit equipment, hence our need for the capabilities of the RRF.

The U.S. Navy has not stood still in the wake of these changes in the U.S. merchant marine. During Fiscal Years 1982 through 1989, the U.S. Navy has invested $7 billion on various sealift initiatives, including the prepositioning ships, the acquisition of the Fast Sealift Ships and the development and procurement of sealift enhancement features, including flatracks and seasheds—large, box-like structures that can be inserted into the holds of regular commercial container ships enabling them to carry military unit equipment.

However, our major strategic sealift asset for surge shipping of military units remains the Ready Reserve Force. The Maritime Administration has administrative and maintenance responsibility for these ships. Current MSC peacetime assets, augmented by U.S. flag ships, U.S.-owned commercial ships under flags of convenience combined with the RRF give us the capability to move the unit equipment and supplies required in a major contingency. Because of its ability to carry bulky outsize cargo and its early availability, the RRF remains in essential part of this capability. Thus we cannot urge too strongly that this committee give its full support to the funding the Maritime Administration requires to continue to provide this essential part of our emergency sealift capability.

MSC fully supports the National Sealift Policy signed by President Bush on October 5, 1989. That policy acknowledges that sealift, including the RRF, is essential to our national security and economic freedom.

At the request of the DOD member of the Policy Coordinating Committee for Emergency Preparedness and Mobilization Planning, MSC has been participating in a task force to develop recommendations to execute this policy.

In summary, the Navy has invested billions in the 1980s to meet our forward defense strategy and our Strategic Sealift requirements. The world is changing and our capabilities must meet those changes. However, funds are becoming more difficult to obtain. A viable maritime industry, especially the merchant marine and a strong, capable RRF, is essential to our current and future defense strategy.

QUESTIONS OF SENATOR BREAUX AND THE ANSWERS THERETO

Chairman Breaux: You wrote in a recent letter to me that "MSC's process for booking cargo is similar to a commercial company—it ships its cargo at the lowest rates that satisfy the delivery requirements of the cargo."

a. Is it not also the responsibility of MSC, as required by the Cargo Preference Act of 1904, to support the U.S. merchant marine by shipping military goods on U.S. vessels at fair and reasonable rates?

VADM Donovan: Unlike commercial companies which ship with foreign flag operators, all MSC solicitations for ocean transportation of DOD cargo give preference to U.S. flag vessels, if available, in accordance with the 1904 Cargo Preference Act. However, there are two other important conditions

contained in the 1904 Act: 1) U.S. flag operators may not charge DOD more than what is charged private entities for the shipment of like goods, and 2) U.S. flag vessels need not be used if their rates are determined to be excessive or otherwise unreasonable. These provisions of the law were aimed at establishing a price ceiling on the preference for U.S. flag vessels. Nonetheless, over 98% of DOD cargo moves on U.S. flag vessels. That which does not is a function of availability and not rate reasonableness. Further, procurements of ocean transportation for DOD cargo are processed in accordance with the Federal Acquisition Regulation (FAR) which stipulates that contracting officers must make an affirmative determination that contract prices are fair and reasonable.

b. Are these two goals at cross purposes with each other? In other words, if your goal is to secure the best rate does that not encourage under-bidding by carriers who are willing to bid low just to receive the contract?

VADM Donovan: I do not believe that the requirements of the Cargo Preference Act are at cross-purposes with DOD obtaining fair and reasonable rates for ocean transportation. DOD's goal of obtaining the "best rate" is mandated by Congress. Full and open competition among U.S. flag ocean carriers for DOD cargo is consistent with the FAR and at the same time is consistent with the Cargo Preference Act which insulates U.S. flag carriers from competing with foreign flag carriers. MSC does not expect prudent businessmen to offer rates which are so low as to imperil their viability.

Further, MSC expressly reserves the right to reject rates which are so low as to bring into question a carrier's ability to perform at the offered rates. I believe we are striking the appropriate balance between our duties under the Cargo Preference Act and our responsibilities under the FAR to obtain goods and services at fair and reasonable prices.

The procurement of liner agreements has been simplified by eliminating a large number of seldom used origin and destination points. In conclusion, MSC is very active in reviewing its liner agreement contracts and has included industry in this review.

c. Do you think additional legislation is necessary to address this problem?

VADM Donovan: No. I do not believe that additional legislation is needed to facilitate this procurement process. The problems perceived by the industry reflects its need for greater revenue. That problem, in my view, should be addressed a part of the ongoing review of direct subsidization of the industry. Legislation aimed at artificially increasing rates paid by DOD through changes to the procurement process would lead to demands for similar treatment by other industries. When the General Accounting Office (GAO) studied a similar proposal in 1988, the Deputy Director for Planning and Reporting, National Security and International Affairs Division of GAO, testified before the House Subcommittee Merchant Marine, on 9 August, "The government is faced with two competing objectives: (1) obtaining the lowest cost possible and (2) maintaining a mobilization base. If changes are made, such as modifying the rate system in a manner that results in additional costs, we believe such additional costs should be identified and fully disclosed. . .In summary, Mr. Chairman, MSC's present method of contracting for ship operation and maintenance and cargo rate setting focus on obtaining the least cost to the government, which is consistent with government procurement policy. If changes are to be made in order to support the U.S. maritime industry which result in additional costs, it is important that these costs be identified and fully disclosed. Decision-makers will then be in a better position to make informed judgements about the cost and benefits associated with such a program."

Chairman Breaux: A couple of months ago a U.S. carrier, APU, complained that MSC had accepted its rates as "fair and reasonable" and that APL would share in a distribution scheme in which the lowest bidder (in that case Sea-land) would be awarded 65% of the cargo on the route and the next lowest bidder, APL, would receive 35% of the cargo. I don't want to focus on that particular case except to use it as an example because I realize that has been worked out but I think a serious question was raised by that incident. What is MSC's procedure for determining which bids are "fair and reasonable?"

VADM Donovan: The MSC Contracting Officer is required to make an affirmative determination that the rates offered are fair and reasonable based on price analysis defined by the Federal Acquisition Regulation (FAR). Included in the analysis is an assessment of market conditions, which includes but is not limited to, consideration of factors such as the trade route serviced, supply and demand and the general economic environment.

Additionally, the Contracting Officer's analysis uses specific criteria to determine if the offered rate is fair and reasonable. The following is a representative sample of the criteria: 1) Comparison of proposed rates with prior proposed and contract rates for the same or similar service; 2) Determination of adequate price competition resulting from a comparison of a carrier's offered rates with the offers submitted by its competitors; 3) Comparison of offered rates with all applicable commercial tariff rates for the same or similar services, and 4) Comparison of rates offered, where appropriate, with the level of market rates overseas for the same or similar services.

b. I understand that you may be working on a long term procurement policy. Would you please comment on that?

VADM Donovan: I have been working with the U.S. flag carriers to improve and streamline our worldwide liner agreement. We are testing a new cargo distribution system to protect the mobilization base and bring more stability to the procurement process. We are also reviewing the feasibility of

awarding longer term contracts. Action has been taken to prevent carriers participating in the procurement, from being awarded a contract and subsequently failing to commence service.

Chairman Breaux: Your predecessor stated that over 95% of the cargo and petroleum needed to support our forces in a crisis or time of war must be lifted by sea.

a. If war broke out tomorrow, where could we obtain that sealift capacity?

VADM Donovan: If the U.S. response to war was unilateral, the sealift capacity to support our forces would initially be obtained from the MSC Strategic Sealift Force. This force consists of eight Fast Sealift Ships, 25 Afloat Prepositioning ships, two Aviation Logistics Support ships, and 29 private vessels under long term charter to MSC. Additionally, the 96 vessels in the Ready Reserve Force would be used to transport out-size unit equipment. The RRF fleet provides approximately one-third of the unit equipment surge shipping capacity that would be required on short notice to support rapid deployment of U.S. forces.

Should the situation develop into a prolonged large-scale action involving a presidential declaration of national emergency, there are approximately 269 militarily useful ships in the U.S. flag commercial fleet, including 110 ships in the Sealift Readiness Program that would be available for deployment.

b. In your opinion, do we currently have adequate sealift capacity in this country?

VADM Donovan: There continues to be a shortfall in our ability to meet current sealift mobilization goals. In the mid-1980's DOD determined that its mobilization goal would be to lift one million short tons of unit equipment in a single move. The MSC fleet—including U.S. flag vessels, Effective U.S. Controlled ships and the Ready Reserve Force— provides the capability to transport approximately 80 percent of the unit equipment surge goal. The shortfall is the result of the decline in the number of militarily useful ships because of the maritime industry's primary use of container ships. These ships, while productive and profitable for commercial shipping, are not well suited for carrying large pieces of military equipment. Although a shortfall currently exists, consideration must also be given to changing world conditions that make it difficult to determine the threat to U.S. security interests and the effect these changes will have on our mobilization requirements.

Chairman Breaux: Do you believe that there is a clear and growing danger to the national security due to the deteriorating condition of America's maritime industries?

VADM Donovan: As a maritime nation, the U.S. needs a strong, self- sufficient maritime industry to build, repair and operate a competitive ocean-going fleet. The current decline in the industry is a serious threat not only to our national security, but also to our position in the global economy.

Chairman Breaux: Recent developments in commercial transportation have changed traditional methods of port operations. These changes which include intermodalism and load centering, have had a largely negative impact on Gulf ports.

Yet U.S. Gulf Coast ports would play a leading role in the reinforcement/resupply effort. In fact, a 1985 study reported that nearly one-third of the commercial seaports identified as important to mobilization plans were in the Gulf.

Do you agree with this assessment and if so, what can be done to assist the Gulf ports?

VADM Donovan: I am aware of the proportionate role of U.S. Gulf Coast ports would have in a war effort. However, I do not anticipate that changes in port development and operations will adversely affect those ports capabilities to support a war effort. I must defer further comments on efforts to make Gulf Coast ports more competitive to the Department of Transportation and the Department of Commerce.

Senator BREAUX. We have a vote going on. Let us try to get in some of the questions.

You had written me a letter recently, Admiral, mentioning that MSC's process for booking cargo is similar to a commercial company. It shifts its cargo at the lowest rates to satisfy the delivery requirements of the cargo. It is also the responsibility of the MSC to support the U.S. merchant marine by shipping our goods on vessels at fair and reasonable rates.

Is that not also part of it?

I know there is an emphasis on saving money, and you give bonuses, in fact, I think, for people who can save money on contracts within the operations, as I understand it. That is all good, but I am concerned about the emphasis on cutting costs where there is also an emphasis, because we are the government, in helping our own merchant marine.

Can you comment on that for me?

Admiral DONOVAN. You and I have talked about this previously. What I have been doing, as we prepare for our next session with the carriers with respect to the liner agreements and so forth is to look to see that we are doing everything we possibly can to make that system work the way that it should be working.

I have worked on some internal programs within the Military Sealift Command, and I have worked closely with MTMC to ensure that we avoid some of the difficulties that we have had in the past. I have meetings next week with the United Shipowners of America. We have a working group meeting early in the week to discuss these very things, and I feel that we will be making some progress. I would like to come back and report to you on that.

Senator BREAUX. We have discussed it before, as you have indicated, and I hope we can.

What are your thoughts on the thing that Senator Lott and I were discussing about the NDRF and the RRF?

Admiral DONOVAN. I feel, as I have stated, that the Ready Reserve Force is very important to us, and I feel that we need the 96 ships that we have, and we need to continue to acquire them. We need to put money into them to make them available and ready to be used when we need them.

On the NDRF side, I think that is really a MarAd issue. I work closely with Captain Leback, and I would like to leave that for his answer.

Senator BREAUX. There is no way you would be interested in using any of those ships, however?

Admiral DONOVAN. Well, they are ships that, if we really had a problem and we were transshipping on the ocean, are certainly attrition fillers and which could be used, some of those.

Senator BREAUX. Senator Lott.

Senator LOTT. Admiral, how did you like the *USS Belleau Wood?*

Admiral DONOVAN. The *Belleau Wood*, loved it.

Senator LOTT. Yes, sir. That was a good one?

Admiral DONOVAN. Absolutely.

Senator LOTT. It was built in Pascagoula.

Admiral DONOVAN. That is right.

Admiral DONOVAN. We are also bidding a number of ships down in Avondale in Louisiana.

Senator LOTT. Yes. They have some activity over there now, so we have a very balanced attitude.

What is your opinion of the 96 vessels you have in the Ready Reserve Force as far as their readiness to be mobilized?

Admiral DONOVAN. Yes, sir. I think that is something we have to think about and look at it in a couple of different ways. I have been around ships all my life, all my adult life, and you have to pay to keep them up. That is one thing that has to be looked at. A ship cannot just sit, even idly, and not deteriorate in some way. So there is a very genuine need to keep maintaining them, even in sitting and waiting.

Captain Leback commented that I might have a comment based upon my experience with these ships. As an amphibious group commander on the West Coast I had an occasion to participate in the breakout of two nonotice Ready Reserve Force ships to use in an amphibious exercise. Both of those ships sea trialed in the right time, sailed in the right time and came to me to do the job.

There are some problems with the breakouts. Some of them do not necessarily make the exact five days and so forth, and you could consider that they did not meet the requirement and therefore failed.

I have also been around ships long enough to know that when you are lighting off a big steamship it might take five and a half or six days. So I think we need to look at the actual sailing time and so forth and maybe be a little bit more realistic as we assess what is a success and what is a failure. My experience has been, having visited a number of them, that they are solid ships, and they are

ships that money needs to be spent on to keep up. I had a good experience in the breakouts in which I have been personally involved in, and I am aware that we have had some difficulties meeting the five days.

Senator LOTT. You are a little more optimistic about them than others. That is encouraging. You do think we need to spend money on them to get them up to speed and to get the numbers up, though?

Admiral DONOVAN. You just cannot have a ship sit still. It has to have money spent on it.

Senator LOTT. One last question, and it is a very broad, general question to which I have referred earlier.

In your position you are bound to be concerned that our commercial ships in the U.S. flag fleet are just dropping, dropping, dropping. We are going to be down to probably 200 by the end of the century. We are running the risk of losing our shipbuilding capability. What are we going to do to turn this around?

Admiral DONOVAN. I think that somewhere we need to develop the leadership that takes an over-arching control over this, where we look at requirements and what our needs are going to be out 20 years, where we get across all the different factional boundaries that we have somehow and have the industry and DOD come together with what we need to do. Where that point of leadership is, that is something I think we have to look at and decide who is going to step up and say I will be the champion.

Senator LOTT. Maybe you should do that.

Admiral DONOVAN. I would not mind taking a shot at that.

Senator LOTT. Thank you, Mr. Chairman.

Senator BREAUX. Thank you.

Admiral, thank you for your appearance. We have some follow-up questions we will submit to you.

Because of the vote, the committee will be in recess, and we will take Admiral Miller's testimony just as soon as we return.

[Brief recess.]

Senator BREAUX. The Committee will please come to order. We will take our final panel and apologize for the interruption, but are delighted that they are with us and we welcome Admiral Miller and his colleagues. If you will introduce all of them for the record, or they can introduce themselves, we will be glad to have your testimony.

STATEMENT OF REAR ADM. FLOYD H. MILLER, USN (RET.), PRESIDENT, STATE UNIVERSITY OF NEW YORK MARITIME ACADEMY; ACCOMPANIED BY REAR ADM. JOHN AYLMER, USMS, PRESIDENT, MASSACHUSETTS MARITIME ACADEMY; DR. WILLIAM J. MERRELL, PRESIDENT, TEXAS MARITIME ACADEMY; AND CAPT. WILLIAM B. EISENHARDT, VICE PRESIDENT FOR STUDENT AFFAIRS, MAINE MARITIME ACADEMY

Admiral MILLER. Thank you, sir. I am Admiral Miller of the New York Maritime College and will be speaking on behalf of the State Maritime Academy superintendents and presidents. With me are Admiral Aylmer from Massachusetts, President Merrell from Texas, and Captain Eisenhardt from Maine. We have submitted a written statement in regard to the Administration's budget proposal and with your approval I would like to summarize it here today.

First, Mr. Chairman, let me express our appreciation to this Subcommittee for your support over the years. I have got to say—and I would just like to depart a bit from my testimony—that I felt like leaping up when the question was asked

by the distinguished Senator from Mississippi about the use of the ready reserve force and the ships that cannot get underway. I can say that we, Massachusetts and New York, have ready reserve force ships, and the ship we just got rid of was used as a ready reserve force ship.

We could get those ships underway in two days, and we could do it for less—much less—more cost effectively than has been done before. We have had a proposal before MarAd and the Administration, and of course we have run it by you all too, for the last several years to use ready reserve force ships as training ships. I believe it is cost effective and it just makes such good sense to me. I cannot believe we have had trouble with the Administration on that, although I will say since Captain Leback has been on board he has been looking at it, and we will talk a little bit about that. We have a good proposal, we believe.

Let me sum up our position. First, we ask that you support the provisions of House authorization bill H.R. 4205, the provisions in regard to the State Maritime Academies, and second we do support the President's request for our State Maritime Academies and request that you authorize that the funds, if available, may be used for fuel for training ships.

We note with concern again this year that the Administration budget proposes a phased-in sharing of two training ships by the five oceangoing academies. The Maritime Administration plans to implement ship-sharing based on their Ship-Sharing Implementation Plan dated August 1989. This plan is fraught with errors, brushes asides our criticisms and concerns and erroneously inflates costs

The Administration's budget proposal states that the additional study required by the Maritime Administration's 1990 authorization act will be submitted 60 days prior to implementation of ship-sharing in time for the assumed implementation of ship-sharing in 1991.

This afternoon, you heard the Maritime Administrator state that the Administration intends to ship-share regardless of the study's findings. It appears with no regard for the severe impact on maritime education and training that they will mechanically meet a requirement, the new study, then implement ship-sharing. This runs counter to the 1988 Appropriations Act in which Congress stated ship-sharing would be implemented only if such a plan is deemed necessary. The 1988 continuing appropriations bill, the 1989 appropriations bill and the 1990 authorization act all put Congress in the decision process.

If MarAd's strategy is to simply commence ship sharing 60 days after completing the training opportunity study, we request that a special hearing be held. As we have noted over the past several years, ship-sharing will wreak havoc upon the State Maritime Academies and thus our Nation's largest source of licensed officers.

MarAd's plan eliminates eight months of alongside availability of our training ships our cadets take to sea, the quality of our training would decline, safety would be impacted, cost to the students and States would increase, academic schedules would be in turmoil and the academic year would arbitrarily be lengthened at some schools. Labor contracts would be affected, and we would no longer meet the International Maritime Organization Standards of Training, Certification and Watchkeeping for licensing, our prime mission, and our Nation would be committed to steam propulsion training versus diesel training for the next 20 years.

The U.S. Coast Guard reviewed MarAd's ship sharing plan and in a letter to MarAd dated 2 May, 1989 stated their concerns for safety, sea time, and the changes required at the schools. As I said a little bit earlier, we have proposed cost effectively using modulized RRF ships dual-purposed as training ships. The

Navy and Military Sealift Command in writing to MarAd have supported this proposal.

Subsequent to our testimony last year we have hired an independent contractor to put together a design concept using Roll on/Roll off ships available at no cost from the RRF. They require little physical change. The modules we propose to use are already in use in the industry today. Using MarAd's own costs from their August 1989 study, RRF proposed, dual purpose ships are more cost-effective than a federally operated fleet of shared ships. Also, the problems of safety, training, quality, licensing, liability and scheduling are no longer an issue.

I should also point out the Navy may soon lay up some ships that can be utilized as training ships at minimum cost. This is allowed by the Code of Federal Regulations and the Maritime Education and Training Act, and this would make MarAd's proposal even more costly.

Good news. We cannot fill the job requests we have from the industry. This bears out all the studies over the past several years that there will be a shortage of licensed officers. We are seeing that shortage now. In this regard, I would like to submit a letter from one of our Nation's largest maritime unions noting today's job opportunities, which I have here and I will give to the recorder.

[The following information was subsequently received for the record:]

Admiral Floyd H. Miller, US (Ret)
SUNY Maritime College
Fort Schuyler Bronx, NY

Dear Sir: 1990, as was the case for the Class of 1989, will present an unusual amount of job opportunities for graduates of your School. our organization, as you know, represents licensed deck and engine officers employed aboard U.S. Flag vessels, We have many deep sea and Great Lakes vessels under contract upon which we are contractually obligated to supply licensed officers.

Job opportunities of 1989 went begging and we do not want to have a repeat of same in 1990. Therefore, we would like to make arrangements in order to discuss job opportunities and the U.S. flag merchant marine with the graduating class.

If this is desirable, please contact me at your earliest convenience so that arrangements can be made.

Very truly yours,

JEROME E. JOSEPH, *Executive-Vice President.*

Admiral MILLER. We have two additional concerns we would like to address. the 1990 MarAd Authorization Act required as a condition for us to receive Federal funds that we agree in writing to require as a condition for graduation that our graduates pass the U.S. Coast Guard examination, yet the U.S. Coast Guard requires successful completion of our curriculums to sit for the exam. All academic institutions recognize successful completion of curriculums to receive a diploma. No other academic institution requires passing of a bar exam, medical license or whatever, to graduate. This requirement runs counter to States' rights.

We would also like to point out that the new sign-up requirements for the U.S. Naval Reserve, Merchant Marine Reserve, student incentive payments are adversely affecting that program. Our students who pay for their educations, in fact more than the Federal Government, does clearly are aware that the State Maritime Academy SIP program is more restrictive than the Naval Academy, King's Point, or all the Federal schools where education is free. If we want a Merchant Marine Reserve, the issue requires correction. In fact, we believe the whole Merchant Marine Reserve program should be studied.

Again, we request your support of the provisions of House bill 4205 and authorize that funds, if available, may be used for training ship fuel. This is covered in the Federal Maritime Education and Training Act. MarAd will not allow it unless it is in the authorizing bill each year.

Thank you for the opportunity to testify, and we would be pleased to answer any questions.

[The statement follows:]

STATEMENT OF THE PRESIDENTS AND SUPERINTENDENTS OF THE STATE MARITIME ACADEMIES/COLLEGES OF CALIFORNIA, MASSACHUSETTS, MAINE, GREAT LAKES REGION, NEW YORK AND TEXAS

We, the Presidents and Superintendents of the State Maritime Academies/Colleges of California, Maine, Massachusetts, the Great Lakes Region, New York and Texas wish to express our appreciation for this opportunity to present our comments regarding the Department of Transportation's Authorization legislation for the Maritime Administration's (MarAd) program in Maritime Education and Training. We solicit your support of an authorization that is consistent with House Authorization Bill 4205 which supports the State Maritime Academy system. We deeply appreciate the support of the Congress and look forward to working with you as we address our Nation's needs in regard to maritime education and training. We, the State Maritime Academies, produce the preponderance of the licensed officers in our Nation and are the prime recruiters and trainers for the industry.

To sum up our position, the following points should be We support the President's request for the State Maritime Academies and request that you authorize that the funds, if available, may be used for fuel for training ships; and We ask that you support the provisions of the House Authorization Bill 4205.

The past several years we have testified in regard to the growing shortage of merchant mariners. This growing shortage was clearly pointed out by the Commission on Merchant Marine and Defense as well as the 1986 Navy Merchant Marine Manpower Study and the GAO 1986 report on the Ready Reserve Force. These studies point out that the number of mariners required to be available to man our ships by the year 2000 will be reduced by one-half. Young vital dedicated men and women are needed to replace them.

The shortage of mariners is good news at the academies. Our placement figures are the best they have been in years; in fact, 97% of our graduates have jobs two months after graduation, the majority sailing or in the armed services. We simply can not fill the job requests we receive from the industry. We need your continued support to meet these needs.

Our Merchant Marine is an integral part of the mobile support forces available to the Navy. In addition, with our country's high level of commitments world-wi involved are dependent upon sealift for survival. If U.S. troops are withdrawn, the need for a Merchant Marine will be even greater as personnel and material would have to be transported back across the seas. This year's proposed Maritime Administration budget provides adequate funding for the operation and maintenance of the deep water academy training ships; however, this is "bare bones," and represents a 24% reduction over the last several years.

We note with concern again this year that the Administration proposes a phased in sharing of two training ships by the five oceangoing academies. The Maritime Administration plans to implement ship sharing based on their August 1989 Ship Sharing Implementation Plan. This plan is fraught with errors and brushes aside our criticisms and concerns and erroneously inflates costs. The Maritime Administration proposes implementation of ship sharing without even visiting one academy to review the operation.

The Administration's Budget Proposal states that the Training Opportunities Study required by the Maritime Administration 1990 Authorization Act (PL 101-115) will be submitted 60 days prior to implementation of ship sharing in time for the assumed implementation of ship sharing in 1991. The Maritime Administrator has stated in testimony before the Congress that the Administration intends to ship share regardless of the Study's findings. It appears, with no regard for this severe impact on maritime education and training, that they will mechanically meet a requirement, the new Study, then implement ship sharing. Thus the Congress will not be in the decision process.

If the Maritime Administration's strategy is to simply commence ship sharing 60 days after completing the Training Opportunities Study, we request that a special hearing be held during which we would be pleased to present more cost-effective alternatives to ship sharing. As we have noted over the past several years, ship sharing will wreak havoc upon the State Maritime Academies and thus our nation's largest source of licensed officers.

MarAd's ship sharing plan calls for PATRIOT STATE and EMPIRE STATE to service the schools in Maine, Massachusetts, New York, Texas and California. The Federal Government would partially man each ship and pay for their shuttling between schools except that no ship would ever visit the Texas school (instead the Texas students and their support would be moved to the ship in Maine at Federal expense). To hedge the occasional unavailability of a training ship in the proposed tight schedule, the 38 year old EMPIRE STATE, which is in unsatisfactory condition now and has been replaced as the New York training ship, will be laid up in the National Defense Reserve Fleet (NDRF) on 60 day's activation. No replacement of this antiquated backup ship is considered by MarAd and no repair or activation funds are programmed.

It should be noted that the old EMPIRE STATE will be laid up on 60 day notice. Sixty days won't work because the involved academies' schedules will already be disrupted. The required changes in faculty and staff contracts, academic schedules and transfer student interfaces will adversely impact

upon the various institutions' schedules. Schedules in an academic environment are not flexible and must be dependable.

Also in regard to the laid up EMPIRE STATE, it will probably cost $3 million to activate her.

As we have reiterated in testimony the last several years, the MarAd plan eliminates eight months of the availability of the training ships the Cadets will take to sea alongside at each school (total elimination at Texas) for watchstanding, day work and laboratory instruction. The National Transportation Safety Board investigated the causes of the 1982 Massachusetts training ship fire and found that such unavailability of the training ship adversely impacted on the safety of the students. In addition, the quality of training would decline, the costs to the students and States would increase, the academic year would be arbitrarily lengthened for some schools, state labor contracts would be affected and curricula would be forced to change. The schools would no longer have programs that meet the International Maritime Organization Standards of Training, Certification and Watchkeeping (IMOSTCW) for licensing. The qualifications and quality of State Academy graduates would decline.

The U.S. Coast Guard reviewed this plan and in a letter dated 2 May 1989 to the then Deputy Maritime Administrator stated their concern for safety and the need for additional sea time. The Coast Guard also noted that the schools would no longer meet the IMOSTCW requirements for license. It is obvious that these impacts would decrease the flow of students to and through these schools and reduce the current level of creation of licensed mariners. In the face of all these adverse results, the liability of the Federal Government would increase, the Federal manpower base would increase, the complexity of operation would increase and no clear cost advantage would accrue. Also MarAd's plan would commit our nation to training 3/4ths of its fledgling marine engineers on steam propulsion plants for the next 20 years instead of the prime propulsion in use today - diesel.

Over the last several years, we have proposed a cost- effective plan of using modulized Ready Reserve Force (RRF) ships as training ships. Over the last several years the Navy and Military Sealift Command have expressed interest in this plan.

Subsequent to our testimony last year, we hired an independent contractor to review our thoughts as to dual- purposed modulized RRF/Training Ships and to develop a concept design with costs using industry, U.S. Coast Guard and American Bureau of Shipping criteria. In addition to this contractor, we have had two manufacturers of modular units review the concept and they have found it practical and Coast Guard approvable. Because the least amount of physical change, (i.e. nothing elaborate is required) Roll on/Roll off (RO/RO) ships were selected. The Navy has already completed modular research and development. The advantages are many utilizing modular 40' living modules already in use in the industry today. With individual heating, ventilation and air-conditioning, they can exhaust into the heavily ventilated tank decks of a RO/RO ship. The tank decks can easily handle 40' containers and they can be rapidly moved on point loads. RO/RO ships have ballast systems already built in. Using RO/RO ships andMarAd's own cost figures in their August 1989 Ship Sharing Study, the dual-purposed modulized RRF/Training Ship plan proposed by the State Academies is about $1 million cheaper a year than the two ship sharing plan. Also all the problems, i.e. safety, training, meeting license standards, liability, etc., go away.

We should also like to point out that Federally-owned ships, including Naval vessels, are expected to become available in the near term. Certainly some could be utilized with very little conversion costs involved. This would be considerably more cost-effective than MarAd's two ship sharing plan and again all the adverse impacts on the academies would go away.

We also want to express our concern in regard to the 1990 Maritime Administration Authorization Act which amended Title XIII of the Merchant Marine Act 1936, as amended, to require that as a condition for any school to receive any Federal payment or use of any Government vessel, the schools agree in writing to require as a condition for graduation that graduates pass the U.S. Coast Guard licensing examination. This runs totally counter to State's Rights guarantees and the operation of academic institutions throughout our Nation.

The U.S. Coast Guard requires successful completion of our curricula and sea time to sit for the Merchant Marine Officer's license. On the other hand, all academic institutions require successful completion of the courses and training to receive a diploma. There is no guarantee that completion of our curricula will guarantee a license just as there is no guarantee that receipt of a diploma from law school will guarantee passing of the bar exam or a diploma from medical school will ensure licensing of a doctor. There is no question other colleges and universities receiving Federal aid are not tied to similar requirements. In reality only a few graduates each year do not take and pass the license exam. This new requirement will not increase the number of mariners that graduate; in fact, quite the opposite will likely occur. The impact will be on recruiting at a time when the predicted mariner shortfalls are coming true.

One additional point in regard to the U.S. Naval Reserve/Merchant Marine Reserve Student Incentive Programs at our academies should be considered. Last year, the law was changed to require the students involved to sign up for their obligation at the beginning of their sophomore year. In addition, they can not be paid their stipend to offset uniform costs until completion of their freshman year, almost a full year after they purchase them. The Federal service academy students, with free education, obligate themselves at the beginning of their junior year and have no payment restrictions such as have been levied on the state maritime academies. Thus, students at the state schools, students

who pay more for their education than the Federal Government does, have more restrictions than those students at the Naval Academy, U.S. Merchant Marine Academy, Coast Guard Academy, etc.

Because of the continued tinkering with the Merchant Marine Program, fewer and fewer students are signing up. It is time for a complete review. We also suggest that the state maritime academies be involved in such a review since we are the ones who must implement the program.

Two of the areas that the Department of Transportation's new Transport Plan purportedly will address are - one, the need for "partnership" among Federal, State and local governments, and -two, the removal of "unnecessary regulations." It would seem the State Maritime Academies clearly meet the needs of a partnership while the changes to the Merchant Marine Reserve Student Incentive Program and licensing noted above warrant a review in regard to "unnecessary regulations." It is the prerogative of the States and the Academies' directing bodies, that provide the majority of the funding, to control requirements. On the other hand, MarAd has every right to control admissions and graduation requirements at a Federally owned, Federally funded and controlled institution. Of course, MarAd can write standards for the State institutions' professional curricula and sea time equivalents for Federal Merchant Marine Officer's licenses; overall academic control is a matter for the sponsoring State.

Under the 1980 Federal Maritime Education and Training Act, the Federal Government provides funding to the State Maritime Academies for:

1. A training ship plus ship's maintenance/repair and fuel money when authorized (Great Lakes excluded) to allow our Cadets to meet the Federally mandated "sea time" license requirements.
2. $100K per school for administration of a State Nautical School.
3. Student Incentive Payments ($100/mo) students accepting commissions in the U.S. Naval Reserve/Merchant Marine Reserve.

In terms of Federal expenditures, the State Maritime Academy system is our Nation's most cost-effective system to produce licensed officers, officers already noted by experience and every study to be in short supply. Over the last several years, the State Academies have produced on the average over 500 licensed officers per year at an average cost of $8.5 million/year. From among those graduates who accept commissions, approximately 50, or 10, volunteer for active duty in the Navy or Coast Guard. Each of these accessions from the U.S. Naval Reserve/Merchant Marine Reserve program is achieved at maximum total cost in Student Incentive Payments of approximately $4,500 over four years, a considerable savings to the Nation over any other source of mariners fully qualified for immediate sea duty and leadership roles. This is our Nation's most cost-effective commissioning source and a very valuable contribution to our security. Our students pay tuition and fees for their education, including training cruises, naval science courses and attend eleven month academic years which deprive them of the opportunity for summer employment. In fact, our students pay more than the Federal Government does. They earn Federal licenses along with their degrees while in a uniformed and disciplined environment. The respective states and industrial sources contribute the balance of academy expenses over tuition. The Federal Government's share, including student subsidies, ship maintenance and repair is cost- effective. This sharing of effort represents one of the best bargains available to the Government.

We submit that the continued existence of our State supported institutions assures our Nation's most economical, cost-effective method of producing Merchant Marine officers. We believe that our students return far more to the economy and the National defense needs of our Nation than they cost and that the survival of the State Maritime Academies is in the national interest. We also believe this system should remain in place for national security as a necessary expansion base.

These matters are of extreme importance to our continued well being. The State Maritime Academies and Colleges at minimal Federal cost have produced and will continue to train outstanding officers for service in the maritime industry, afloat and ashore, the U.S. Navy and Coast Guard, NOAA and other service related organizations.

We request that the ship sharing proposals solicited again this year by the Maritime Administration be rejected as not feasible and not in our national interests. Specifically, we request through Senate action similar provisions as contained in House Bill HR 4205. This will ensure that the State Maritime Academy alternative proposals to ship sharing will be examined as well as MarAd's proposals effecting admissions and graduation requirements in the State Maritime Academy system.

In addition, we request that "fuel oil" reimbursement be added to the authorization. Although reimbursement is allowed by the 1980 Federal Maritime Education and Training Act, MarAd historically has denied reimbursement, if funds are available, unless the Authorization Bill for that year specifically mentions "fuel oil." We appreciate your past support and trust that we may continue to receive your confidence and support in the future. We ask that you work with us before making any decision for ship sharing. We want to continue to meet the requirements of our Nation's Maritime Industry.

We would be pleased to assist you in any studies you may wish to undertake with regard to the matters we have raised and would be happy to have the opportunity to discuss our situation with you and your staff at your convenience. We trust you will give our requests and our views your favorable consideration.

Senator BREAUX. Thank you very much, Admiral, and all of your colleagues for being with us and presenting the testimony. On behalf of the State schools, we appreciate your work with us, and I am really delighted to find out that it seems that you have more job opportunities out there than we are graduating even licensed officers now.

Admiral MILLER. Yes, sir.

Senator BREAUX. Is that because of any particular growth area in the industry? Is the oil and gas industry coming back?

Admiral MILLER. There are some parts of the industry coming back. In fact, Great Lakes last year—and I am aware of the Great Lakes, not only because New York is a Great Lake State, but we had our new training ship up in Sturgeon Bay, Wisconsin, being converted—pulled about every ship they had out to operate on the Lakes—that is U.S.flag—because they were moving Tagonite. That is the steel industry, I guess, rebounding somewhat.

As pointed out, though, in all of the previous studies relative to the officers and unlicensed in the Merchant Marine that there would be a paucity of them as we enter into the 1990s. This is primarily because the average mariner's age was around 60, so they are sort of falling off into retirement and we are filling in behind. That average age is dropping now. I think that is part and parcel of the whole thing.

Senator BREAUX. Where are the graduates going? What is the sort of general summary of the type professions, or operations they are going into?

Admiral MILLER. Well, primarily, we have about—and I would say this year it will come out to 60 percent, but last year it was 56.6 percent—took jobs afloat, then about another 12 percent went in the Navy, and then the remainder in the industry ashore, with a few going on to graduate school. I am positive this year that jobs afloat will even be higher.

Senator BREAUX. Are these numbers similar to numbers for the rest of the schools?

Dr. MERRELL. Yes.

Senator BREAUX. I was going to ask a question about your opposition to a requirement that I think was in last year's authorization that a condition for any school receiving any Federal funds would be that they require that as a condition of graduation the students and graduates pass a licensing exam of the U.S. Coast Guard, and I think I heard your point that you made, Admiral, being that well, it is a violation of States' rights, et cetera. I guess I would agree with that if the graduates only operated within one State, but I mean you are obviously on the high seas and all over the United States, and indeed all over the world, and so why is there—I mean, is there any other reason, other than the States' rights argument, which I think if they only operated within the State is fine, but when you are operating internationally and worldwide, the requirement that we all have at least passed the same standard licensing——

Admiral MILLER. The real point is that it is not going to affect the number taking the license exam. It affects our recruiting. We have had so few graduates not take the license exam. I ran a study last year and about five a year out of all of the schools do not do it, and so that is not really going to make the difference.

The issue is that the States and the organizations, the Board of Trustees of the various schools responsible for the curriculums, are the ones in the normal academic institution who dictate graduation requirements. There is no problem with MarAd coming up with what curriculums on the professional side we should have, but no other school has a requirement like that, as I pointed out, to pass a bar exam or to pass a medical exam to graduate.

Now, if it is a Federal school, we concur, and my point is that this requirement is not even necessary.

Dr. MERRELL. They still have to pass the Coast Guard license before they can go out on the high seas as an officer on a ship.

We have a situation where this affects essentially all the students in our degree program, which are 42,000 students, and 42,000, we have about 200 in the license option program. We are in a real quandary if one of our students drops out of the license option programs. Does that mean we cannot give him a degree? It just does not make much sense. I mean, really, the State should decide—that is, the State university—the graduation requirements.

Now, the Coast Guard certainly has the right to make that test as tough as they want, and we are not arguing with that whatsoever, but as a condition to graduation we think that it is wrong.

Admiral MILLER. The Coast Guard says we have to pass all the graduation requirements to take the test. It is a Catch 22.

Admiral AYLMER. I think somebody drew the analogy also with the law school or the medical school that Federal assistance might flow to, and the prerequisite for, you know, the awarding of the degree there being a good analogy.

But additionally, I had two examples at my campus that might interest you, and I would ask the question rhetorically what would you do? I had a young lady who was in her junior year, and she unfortunately had a terrible automobile accident, as a result paralyzed from the waist down. We made an exception to the rule, allowed her to matriculate and to take her degree. Naturally she was not physically qualified to take the Coast Guard license exam. She went to work after graduation, interestingly enough, for the Federal Food and Drug Administration, and four years later became a trustee, she is now Chairman of my Board of Trustees.

Additionally, there was another young lady at our college who decided to get married in her senior year, became expectant and also decided not to go to sea. She was allowed to take her degree, for which she paid tuition and costs towards each year, and paid additional significant amounts of money out of her own pocket. To condition the awarding of that degree to her on having to take and pass the license examination, not intending to go to sea, but more so selecting to be a mother, I think is a good example—two good examples of how you would have some real problems with that concept.

Senator BREAUX. Let me ask about the ship sharing program. Obviously, we have been through it a number of times with regard to the position of the Administration, trying to implement it, and the schools opposing it.

Do you have a proposal, as I understood your comments, Admiral, to the MarAd Administration with regard to a ship sharing or utilization of some of the RRF ships?

Admiral MILLER. Yes, sir, we have, and we have given it to them. They have it over the last three or four years. In fact, tomorrow we are going to meet with Captain Leback again on it. Before Captain Leback no one would even talk to us about it, and that is the use of RRF ships with modules. Using our figures combined with MarAd's figures, it is cheaper by $1 million a year than MarAd running a two-ship fleet of federally owned, federally operated training ships.

Senator BREAUX. How would your proposal work?

Admiral MILLER. We would take ready-reserve force ships, and the ones we are looking at are Rollon/Rolloff, because they do not require any real change to take modules which are already in use in the industry today. Those are containers that you lock together and put on the tank decks. They exhaust into the tank decks,

and a roro ship has lots of ventilation, so you do not have to make many changes there.

So with very little changes we put the containers in. Texas does not require anywhere near the number that, say that California would require, and so it would even be cheaper. We can put that all together for less than $5 million a ship using industry estimates.

Senator BREAUX. What would be the advantage of that proposal?

Admiral MILLER. Well, the ship—the RRF ship would then be dual-purposed and as an RRF ship would be ready to get underway in short order. I point that out because Massachusetts' ship and my last ship were both used as ready reserve force ships to get underway in four different exercises. They got underway in short order, and the last time they did it cost about $200,000 as opposed to about $1 million for a regular ready reserve force ship. So you could have that.

You could do anything you wanted with the ship. You could carry troops, pull the containers off, or maybe carry just a specialized group, or use it just as a straight roro ship. The Navy, Admiral Butcher, was very excited about that to the degree that he wrote a letter to MarAd and said you really ought to take a good, hard look at this. We like it.

Senator BREAUX. Well, let us have a copy of the proposal? I would be interested in seeing it, and maybe we could be of help in that regard.

Admiral AYLMER. I would just like to supplement with just a footnote. Given the fact that for two consecutive years your sensitivity to rhetorically posing the question as to why they would not use our RRF ships to meet the needs of the training schools, Senator, was what led us to this study. And it makes eminent sense.

I think one other thing that needs to be said is that there has been discussion, by way of the proposal on the table now at MarAd, to use the Patriot State and the Empire State for five state maritime academies training. It is tantamount, in my opinion, to an academic death sentence, given the fact that both ships are steam vessels. Steam is not the propulsion of choice.

If we do not get more diesel training by way of such RRF ships that might be converted, it is tantamount to suggesting to three-quarters of the engineering marine officers that are graduating and getting licensed being trained on steam ships instead of diesel. And that, I think, is a catastrophic impending situation, when we are not developing the kinds of expertise in diesel as we should.

Senator BREAUX. Well, I appreciate those thoughts. I have always felt that we ought to be utilizing our Ready Reserve Fleet for more active operations than just sitting there. And I think it would be important to move in that regard. So we will see what we can do on that.

Admiral MILLER. You know, Senator, you just have to consider that when that ship is out-ported at the schools it gets free steam, free electricity, free security, and the cadets pay to do maintenance on it. It is a good deal for the United States Government.

Senator BREAUX. Well, that is a good presentation, and we thank you once again for being with us. Your thoughts will be considered. And send me that information, Admiral.

Admiral MILLER. Yes, sir, I will.

Senator BREAUX. That will conclude this afternoon's hearing. And if there is no other business, the subcommittee will be in recess.

[Whereupon, at 4:10 p.m., the hearing was adjourned.]

STATEMENT OF DR. F. EUGENE GUEST, DIRECTOR, MARINE SAFETY INTERNATIONAL/COMPUTER AIDED OPERATIONS RESEARCH FACILITY, NATIONAL MARITIME RESEARCH CENTER

This statement is submitted by Dr. Eugene Guest, Director of MarineSafety International (MSI). MSI, a wholly owned subsidiary of FlightSafety International, operates the Computer Aided Operations Research Facility, better known by persons in the U.S. maritime world as CAORF. We are located on the campus of the U.S. Merchant Marine Academy at Kings Point, New York.

MarineSafety International (MSI), a private sector company, has been in business since 1974 as a subsidiary of FlightSafety International (FSI). FSI builds and operates flight simulators in over 40 locations worldwide. We have done both research and training based on the use of sophisticated simulator technology. In fact, the beginning of our company rests on the innovative application of technology to the maritime world. Twenty years ago major shipping concerns were introducing Very Large Crude Carriers into their fleets. They needed to know how such large ships could be maneuvered into and out of ports, how the human master and pilot would adapt to the larger weight to power ratios, and what, if any, special navigational devices needed to be put aboard or ashore to assist the maneuvering. Simulator technology developed in the United States in the aviation industry was immediately applied to this particular need. MSI began as a new, support service company to the marine industry.

We are pleased to submit this statement on the need for maritime research and development for stimulating technological innovation in the shipping and shipbuilding industry. This panel has been supportive of the need of maritime research for several years now but your efforts have met with firm resistance from this and the previous Administration. With the appointment of Warren Leback as MARAD's new Administrator, coupled with the public outcry over oil spills resulting from ship handling accidents in the last year; I feel that new consideration will be given to this program.

The Need For Marine Transportation Goals The "Statement of National Transportation Policy - Strategies for Action" puts forth several goals to take transportation into the next Century. Few observers placed those goals into the context of our Nation's waterways. The policies enunciated in that blueprint call for:

* beefed up research effort in coordination with the private sector;

* a comprehensive program of research on human factors in transportation, including the causes of transportation accidents and the effects of operator impairment, perceptual errors and fatigue, as well as design and operating changes that can eliminate or reduce those effects;

* research on improvements in design and operation of existing vehicles and transportation systems;

* provide seed money for research on new transportation systems and technologies, and;

* promote adoption of new technologies and reassert the U. S.'s international technological leadership in transportation by fostering increased awareness of and interest in research and development activities.

If these goals are to be met for all segments of America's transportation system, then we must restart the research and development efforts of the Maritime Administration. Further delay on this issue will put our personnel at risk, our shorelines in danger and our shipping industry at international disadvantage.

We hear so much about upgrading our transportation infrastructure, mostly by those referring to highways and bridges. Waterways have an infrastructure too. One that needs to be analyzed and sometimes, altered to meet our shipping needs. Over the years, we have found that the only real way to establish the body of knowledge required for safe efficient shipping is through federally funded maritime research.

Since 1987 MSI has been operating CAORF. This facility is owned by the Maritime Administration (MARAD) and, prior to 1987, was operated via contractor by the Government. Budget constraints and Administration policy dictated that funded research be halted and that the operation on the facility be privatized.

Background The CAORF facility was designed, built and operationally tested from 1971 to 1976 at a cost to the Federal Government of $16 million dollars. That original system has been added to over the years. MSI has recently completed a $2.5 million dollar equipment upgrade which is titled over to MARAD. More than a decade of research, programming and data base development was carried on by the federal government after the facility became operational. A significant amount of effort went into the validation of the facility for research applications. It has been estimated that the cost to duplicate the ability of CAORF to do research and to reproduce the pool of research and data bases already done would be over $50 million dollars. This certainly indicates the will of the federal government to accomplish needed maritime research, at least up through 1987. Most recently, MSI has been selected by the Coast Guard and the National Transportation Safety Board to examine the causes of the Exxon Valdez disaster.

For those present who do not know CAORF, it is a research facility that comprises a state-of-the-art ship simulator along with off-line simulation capability and a staff of marine professionals, research engineers, human factors engineers and programmers. Through its capability to place the human being on the bridge of a simulated ship in a simulated environment, CAORF offers a unique research tool

for the investigation of shipping operations, port operations, and the testing of new concepts and marine technology applications.

A research program at CAORF was funded by MARAD from 1976 through the first part of 1987. The program was halted because of budget constraints. This was unfortunate since CAORF was the first application of computer generated image technology to maritime research anywhere in the world. Into the late '80s the United States was at the vanguard of using new and sophisticated simulation technology for maritime research.

Since MARAD has abandoned their research program, we are losing our competitive edge in the shipping industry every day. Technology lag also threatens our environment and safety of our personnel. We can no longer afford this economy.

A description of the past research program at CAORF will help to put the problem of general maritime research into perspective.

Past Research at CAORF The stated mission of the Maritime Administration is to promote the strengthening and expansion of the American merchant fleet. Accordingly, the central r & d goal of the Administration was to find the most effective methods to heighten merchant vessel productivity and safety. One avenue to achieve this goal was the development and support of shore based research facilities and experimental capabilities to solve ship operating problems at less cost, less risk and in less time than possible using at-sea evaluation efforts. CAORF was built to put those concepts into operation.

The ship designer and fleet operator are continually confronted with human factors problems as ship personnel control increasingly complex ship systems in operating environments. CAORF is dedicated to the study of these human-ship-environment system problems as they relate to improving the productivity of ships and ports in a safe environment without safety and environmental risks. This is possible because the fundamental duplication of the bridge environment, including a visual through-the-window scene and accurate modeling of a vessel's dynamic response; allowing researchers to monitor human-ship- environment behavior that is comparable to real world performance.

CAORF's mission with respect to its research program was to pursue the investigation of technology which has the greatest potential for improving maritime productivity and growth. The domain of potential research that this entails is quite broad and, of necessity, needed to be narrowed to those lines of concerted research that offer the best opportunity for application. The research domain was, therefore, broken down into four large sections: Navigation and Vessel Control Port and Waterway Design and Operations Vessel Maneuvering Characteristics Training System Development and Mariner Certification For more than ten years research continued in these areas, slowly building on the knowledge base needed to take advantage of technology applied to ship and port operations. Now, much of that general research is unfinished and, in many cases unapplied. Moreover, what has been accomplished in jeopardy of being forgotten and lost. A few examples from each of the four research areas provide some meaning to the previous research effort.

Navigation and Vessel Control The navigation and control section comprises three areas: ship's bridge design, procedures, and human operator characteristics. In the area of bridge design CAORF has conducted research into instrumentation and displays and into bridge visibility requirements. The U.S. was at the leading edge of developing micro-processor based radar plotting aids in the late '70s. CAORF experimented with collision avoidance techniques and with this special equipment, called Automatic Radar Plotting Aids. Work was also done with steering predictors and with rate of turn indicators. Left undone, however, were the requirements for identifying the best equipment layout for optimum display of information to the operator, examination of precision microwave positioning equipment for port entry and lock approaches, and testing other information display devices such as electronic charts. Work like this has continued in other countries leaving America in their wake.

In the area of bridge procedures CAORF has done research in teamwork, management and in measuring the workload on the ship's bridge. Still needed is the testing of direct application of new bridge management procedures.

Operator characteristics have been investigated from the standpoint of piloted controllability, performance measures, work/rest cycles, and helmsman/pilot interaction. Left undone are investigations into perceptual cues for visual feedback for piloted controllability and into performance measures for certified bridge personnel. What is undone has direct application to vessel and port productivity and safety.

Port and Waterway Design Port and waterway design and operations addresses physical configuration of ports and waterways, port navigation systems, and traffic management. CAORF has helped to develop the techniques necessary to use on- line vessel navigation simulation to answer important questions. Research has been two-pronged. One path is the development and testing of study technology and analysis tools. The other path is the practical application of the technology to actual projects. CAORF has been instrumental in both, and its present work is mainly in the area of practical port design testing.

Many waterways have been examined. Lake Charles, Port Arun, Norfolk, and the Panama Canal are just a few. However, beyond these practical applications are more fundamental questions which need answering in order to allow simulation technology to be even more of a valuable tool for reducing design costs and problems. So far unanswered are questions about simulation fluid mud, ice, and water flow around a ship blocking a channel.

CAORF has been used to help design port navigation systems. Specifically, this has been in the areas of aids to navigation and in helping to design approaches to bridges and breakwaters. Much more can be pursued, especially in the area of electronic systems for ports and vessel berths.

Although some experimentation has been run regarding Vessel Traffic Systems, much more can be done in order to fill out our understanding of port traffic management. Moving ships efficiently and safely into and out of ports will become more and more of a problem in the future. Ships are larger, like the post- Panamax size, and will become more numerous. All-weather navigation and traffic advisory, as well as traffic control, will become a necessity. At this point the only research being done into these areas is being conducted in the Netherlands.

Vessel Maneuvering Characteristics The productivity of both ship operating companies and the ports their ships enter is directly related to the maneuvering characteristics of the vessels. However, for many of today's newer vessels including tugs and barges, they are not well defined. A lack of specifications also increases the difficulty of determining whether the ship type is capable of safely meeting particular operational demands. Although little has been done to define and standardize maneuvering characteristics, we can and should determine the design and maneuvering requirements of special and new ship types, such as bulkers, ice navigating vessels, and specialized carriers. Research needs to be done to develop indices and standards of controllability for ship and for tug/barge combinations working in confined areas. Ports, as well as operators, need to know limitations due to low length to beam ratios, low underkeel clearances, and unusual hull configurations, or propulsion types.

Some research has been carried out in the areas of maneuvering response of containerships and in the use of tugs for vessel control. Much more could be done. Basic, general work is moving ahead in Denmark and Japan.

Training Systems and Certification CAORF has had a significant impact in defining training systems for every application from the level of merchant marine cadet to accomplished pilot. Our project began in 1978 with an investigation of the potential role of simulators in training and certifying deck officers, pilots and cadets. The Certification and Training project progressed over the next seven years to cover functional specifications for each type of certification, criteria for evaluation training systems and operational guidelines. In all, the MARAD and the U.S. Coast Guard each invested well over $500 thousand dollars in that research. Although much was accomplished, the work is really unfinished and has never been fully applied.

Accidents directly affect the productivity of port and ship and determine liability costs. Right now no pilot, master, officer, or helmsman has to demonstrate proficiency by performance before being certified. Their counterparts in the aviation and in many other industries (e.g., nuclear) first have to demonstrate proficiency via simulation, that is doing. More research into how proficiency can be demonstrated using simulation needs to be done so that regulatory agencies set standards for the demonstration of proficiency by those persons charged with moving large vessels, large quantities of environmentally dangerous commodities, and large numbers of units. What constitutes proficiency in piloting shiphandling, and bridge management is a question for general, directed research.

Statues of Maritime Research in the U.S.

Maritime research has had a precipitous decline since 1987. The decline actually started before that year when the previous Administration decided that all maritime research should be funded by the private sector. For specific, practical applications that decision may have been justified. But for general research benefiting the maritime industry as a whole, that decision eliminated most of the research needed for the U.S. to maintain a leadership position.

However, two comments must be made regarding simulator based maritime operations research in the United States since 1987. First, it has mainly been the application of previously developed techniques, developed from more general and fundamental research which was in large measure funded by the Federal Government. Second, while port authorities, ship operators, and other such entities will continue to use simulation, their funding will, of necessity, be directed to specific problems which have an immediate application to their operation and which probably will not include research general enough to be applicable to the general welfare of the maritime industry in the United States.

Port authorities, ship, operating companies, and a few federal agencies, like the Army Corps of Engineers, have continued to use simulation to investigate specific problems. MSI routinely participates in this "operations research." We have, for example, recently completed simulation studies for the Port of Los Angeles and for the Port of New York. These were studies that examined the designs of water access to the respective ports. They were operational studies which applied the previously developed simulation research technology to problems of port productivity and safety.

Similar studies were done for ship operating companies. In one instance, MSI conducted an examination of a proposed port of call for American President Lines containerships (APL). In another program, procedures for handling APL ships into Dutch Harbor, Alaska, were developed via simulation. Both of these studies were aimed at increasing productivity and were conducted with the assist of a technology which, until recently, the U.S. has been in the leadership. Government Participation in Maritime Research It is evident that fundamental research goals that provide the basis for effective applied research will probably not be accomplished without a Federal role in maritime

research and development. It is also evident that such a role must be assumed if the United States is to seriously remain competitive in the shipping and port industries.

Marine Safety International and CAORF recommends to this subcommittee that the Federal Government's role in maritime research and development be reinstated. It is not sufficient to have only the private sector funding research.

During an interview shortly after being sworn in, Captain Warren Leback, Maritime Administrator, said, "I believe,... that MARAD should focus its efforts (among other things) on ... research and development providing seed money through cooperative efforts with the industry..." We agree wholeheartedly with Captain Leback. Perhaps an initiative could be made in which MARAD could create a research subscriber program. In such a program port authorities, ship operators, ship builders, and other parts of the maritime industry could participate with the Federal government in research and development by "purchasing" a research subscription. Subscribers would help direct the research dollars into areas which would have meaningful application. On the other hand, Government participation would assure that the research were necessarily broad enough to benefit all maritime interests by achieving the more fundamental research goals.

Our own special brand of research is simulator based. Maritime research using high technology simulation is a recent phenomenon. The United States has been recognized as a leader in this field. CAORF, while under Federal research program, was looked to for guidance by similar institutions in other nations. We now, however, stand to lose that place of leadership to Western European nations and to Japan which are rigorously adopting simulator based research programs.

Recommendations Several research objectives for enhancing the productivity of ports and ship operators can be immediately suggested.

For ports we recommend research programs investigating: Vessel Traffic Service systems, their need and use in controlling vessel movement into and out of the port; microwave signal positioning systems for navigation into port; the development of paradigms to be used when applying simulation to the problems of dock design, terminal placement, and port access; research, develop and validate a bank of high quality data bases for U.S. ports and waterways which are environmentally sensitive. This would be used for traffic studies, pollution (oil spill) response, and training.

For ships we recommend research programs investigating: expert piloting systems to assist pilot and bridge team when maneuvering in restricted waters; manning levels; bridge/navigation procedures and technology.

In the area of training and certification, we recommend resuming the study CAORF had earlier started under the auspices of the Coast Guard and the Maritime Administration. At least these items need to be investigated: requirements for the use of simulation in demonstrating proficiency by all maritime professionals; requirements for data bases, simulator features and course content for the use of simulation in the training of mariners.

These and other areas mentioned previously pose questions which, if answered precisely, will yield more efficient use of maritime resources and make us more competitive.

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